

THE
LAWIERS LO-
gike exemplifying the
præcepts of Logike by
the practise of the
common Lawe,
by

Abraham Fraunce.



AT LONDON,
Imprinted by William
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To the Right honorable, Henry Earle of
Pembroke, Lord Herbert of Cardiffe,

Marmyon, and S. Quynnten, Lorde Præsident
of the principality of Wales, and the Marches of
the same, Knight of the most noble order of
the Garter, and Lord Lieutenant of Wales, of
the Marches, and of the counties of
Wyltes and Sommerfet.

IF Lawes by reason framed were, and grounded on the same;
If Logike also reason bee, and thereof had this name;
I see no reason, why that Law and Logike should not bee
The nearest and the dearest freends, and therfore best agree.
As for the fonde conceyt of such which neuer knew them both,
Better beleue some mens bare worde, than their suspected oth.
I say no more then what I saw, I saw that which I sought,
I sought for Logike in our Law, and found it as I thought.
If all that I haue sought and found your Honor doe content,
(Let scribes and pety penmen talke) I thinck my time well spent,
And labour herein well imployd: Acceptance is my meede,
I craue no more, I haue no lesse, if you vouchsafe to reede.

Your Honors

most vnfaignedly affectionate

Abraham Fraunce.



TO THE LEARNED

Lawyers of England, especially
the Gentlemen of
Grays Inne.



Here bee almost seauen

yeares now ouergone mee, since first I began to be a medler with these Logicall meditations: And whilest I haue said and vsaid, doone and vndoone, and now doone all a new, mee thinkes these seauen yeares haue quickly ouergone mee. I first began, (when I first came in presence of that right noble and most renoumed knight sir Philip Sydney) with a generall discourse concerning the right vse of Logike, and a contracted comparison betweene this of Ramus and that of Aristotle. These small and trifling beginnings drewe both him to a greater liking of, and my selfe to a further trauayling in, the easie explication of Ramus his Logike.

Sixe tymes in these seauen yeares haue I perused the whole, & by a more diligent ouerseeing corrected some ouersights: thrise at S. Iohns colledge in Cambridge, thrise at Grays Inne, since I came to London. This last alteration hath chaunged the name of the Booke; & this new name of the Booke proceeded from the chaunge of my profession. For hauing resolutely determined to

acquaint

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acquaint my selfe with our English laws & constitutiōs, I thought good to make tryall, whether my eight yeares labour at Cambridge, would any thing profit mee at an Inne of Court, wheather Law were without Logike, or Logike not able to helpe a Lawyer. VVhich when I prooued, I then perceaued, the practise of Law to bee the vse of Logike, and the methode of Logike to lighten the Lawe. So that after application of Logike to Lawe, and examination of Lawe by Logike, I made playne the precepts of the one by the practise of the other, and called my booke, The Lawyers Logike; not as though Logike were tyed onely vnto Law, but for that our Law is most fit to expresse the precepts of Logike. Yet, because many loue Logike, that neuer learne Lawe, I haue reteyned those ould examples of the new Shepheards Kalender, which I first gathered, and therevnto added these also out of our Law bookes, which I lately collected.

I doubt not, but that some welwillers, and many maliciously disposed cayllers will as much reprehend this straunge coniunction of Lawe and Logike, as they did meruayle at my sodayne departure from Philosophy to Lawe. To those that meane well, and speake according to their meaning, I wish no woorse vse of Logike than may be had in Lawe. For the rest, which make proclamations without authoritie, and exclamations with greater indignation than discretion, I leaue them to their standish, and pray for their good successe, that after the tearme of seauen yeares fully compleate and ended, they may bee in their blewe veluet night-caps solemnly called to the Barre for their extraordinary skill in making of obligations.

Tully, at the earnest request of Trebatius, a towardly
Lawyer.

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Lawyer of Rome, hath eloquently put downe the first part of Logike in his Topikes, to the praecepts whereof hee applyeth Law-like examples, for the better instruction of Trebatius and helpe of other Lawyers. Seruius Sulpitius, as the same Tully reporteth, became the most excellent Lawyer in all Rome, and that onely by the helpe and direction of Logike: insomuch that he onely, by these meanes, was said to haue the art & knowledge of the Lawe, whereas the rest had nothing but the practise of the same, by continuall beating of their braynes about endles controuerfies. Hee knew what was Law, & what was the reason of Law; they like good Catholikes and modest minded men, beleueed as the Church beleueed, but why the church beleueed so, it neuer came within the compasse of their cogitation.

But all this notwithstanding, it cannot bee, sayde one great Tenurist, that a good Scholler should euer prooue good Lawyer. God forbid, good sir, you offer your selfe too too much iniury: for wee, countrey men, take your woorthship for a greate wise learned man, and I doubt not but that your selfe are well perswaded of your woondrous knowledge in the Lawe, and yet you say, that Lawe and Logike can neuer stande together. Tis great pity, God wot, that these two excellent qualities can neuer bee reconciled. Alas; what should ayle them, if it like your good Maystership? Mary, quoth hee, these fine Vniuersity men haue bene trained vp in such easie, elegant, conceived, nice, and delicate learning, that they can better make new-found verses of Amyntas death, and popular discourses of Ensignes, Armory, Emblemes, Hieroglyphikes, and Italian Imprefes, than apply their heads to the study of the Law, which is

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hard, harsh, vnpleasant, vnflauory, rude and barbarous;
Vell said good Iohn a style.

*Dij te, Damasippe, de æque
Verum ob iudicium, donent consort; sed vnde
Tam bene nos nosti ?*

For my selfe, I must needes confesse I was an Vniuersitie man eight yeares together, and for euery day of these eight yeares, I do not repent that I was an Vniuersitie man. But for that delicacie of studie whereof you dreame, because it seemeth somewhat straunge, a worde or two, before wee go further. Surely sir, by your patience be it spoken, it seemeth you came abruptly from a countrey schoole to an Inne of court, or els riding poast towards London, you chaunged horse at the Vniuersitie, and comming thither late in the euening, and riding away early in the morning, saw nothing but by candell light. It was incident to my nature (as I thinke) to bee caried away with as delicate and pleasant a kinde of learning, as any of my time in Cambridge. VVhich (notwithstanding an inestimable delectation that drowned the paines of studie) did yet so racke my raunging head, and bring low my crased body, that I felt at last when it was too late, the perpetuall vexation of Spirite, and continuall consumption of body, incident to euery scholler.

And if the most easie conceipts in Vniuersities be so hard, the most delicate studies so full of toyle, how troublesome then and painefull the foundation of arts, the framing of an English tongue to vnknown languages, must in any case bee, I leaue to be iudged of them, who can discern betweene a superficiall apparance and true substance, betweene the brauery of a Midsommers Commencement,

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mentement, and the seauen yeares paynes of a Maister of arts.

Now for the study of the law, which, by these law-mens report, is so hard, so vnfauiory, so rude, and so barbarous, thee may well pronounce of her professors, as Horace of his guesstes.

Tres mihi conuiua propè dissentire videntur,

Poscentes vario multum diuersa palato,

Quid dem? quid non dem? renuis tu, quod iubet alter,

Quod petis, id certè est inuisum acidumque duobus.

For the hardenes and difficulty, I say nomore, but *καὶ νόλα χάλεπα*: and if Philosophy be harde, and law be harde, *Iam sumus ergò pares*. In deede the want of teachers and good discipline which is in Vniuersities, makes law seeme harde, and Philosophy very easie, which, if either we had, or they had not, no doubt, law would sooner be learned in seauen yeares, then seauen arts in one & twenty. But the law is vnfauiory, saith an other: But the fault is in your corrupt tast, say I, not in the nature of the thing, which vnto the wisest is most acceptable, vnlesse you play the part of Philoxenus, and vnder pretence of abhorring the loathsome fauour of the law, intend the deuouring of all profites proceeding from the law, whiche seemeth indeede to be the scope you ayme at. You would loue the law but *sine rinali*: you would raigne, but alone: *Hinc illa lachryma*. For otherwise I can hardly thinke so hardly of you, as to measure your discretion by the vnprobable assertion cōprised in your two last Epithetes, wherein you disgrace the law with rudenesse and barbarisme. For, as for that Hotchpot French, stufft vp with such variety of borrowed words, wherein our law is written, if this be all the Dunsicalitie

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you talke of, you are farre more nyce then any Vniuersitie man of mine acquaintance. I know by experience, there is no word so outworne, no speach so vast and gaping in Brytton, Bracton, Glanuyll, Lytleton, Parkins, and the rest of our Law autors and reporters of the law, as is in Bricot, Burley, Bonauenture, Duns, Durand, D'orbell, Aquinas, Andreas, Albertus, and a farre more infinite number of those Moonkish cloysterers deuoured of Schollers, than bee of these others perused by Lawyers. And yet, notwithstanding all their Perseities, Formalities, Quiddities, Hæccities, Albedinities, Animalities, Substantialities, and such like, hee that would not gather gould out of Aquinas dregges, as Virgill did out of Ennius, I shall thinke him as wise, as some feelly Pettyfogger, who rather than hee would trouble his conscience with Feetayle and Feesimple, will lyue like a simple foole, and neuer take fee.

VWhether it bee malice therefore and enuy, or ignorance and simplicitie, that causeth you to wrangle and chatte so vndiscreatly, you may see how you doo erre by the one, and are deceaued by the other. For neyther are Vniuersity men so daynty, as to loose their dinner because the Cooke had not on his holiday apron, neither is the Law more vnsweete, than other learning vnsauory, whatsoeuer you cast out to the contrary.

But the Law is in vaste volumes confusedly scattered and vtterly vndigested: so was all other learning not long agoe: yet herein blame not the Law, if it bee datke, but Lawyers themselues that had no light: blame not the Lawe, I say, which was out of order, but Lawyers themselues that neuer knewe Methode: Nay, blame neyther Lawe, nor auncient Lawyers, who by reason
of

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Of the generall misery of their obscure age, could not see euery thinge, but exclaime against your selues, who in this flourishing time and blessed opportunity, will see nothing. If those auncient fathers of our Lawe had lyued now, all had beene well, but if you had beene extant then, all had beene woorse. For neyther can you doo what you should, nor will let others doo what they would for the more orderly explication of the Lawe. Such is the vntowardly disposition of this scornfull age of ours, wherein no man prayseth any more, then hee thinketh himselfe able to performe, but seeketh to cloke his owne ignorance by deriding other mens skill, being himselfe so simple in other mens iudgement, and wise in his owne conceipt, that when hee hath spoken without measure to a doozen of poynts, all is not worth a penywoorth of pinnes: for neyther himselfe can well vnderstand his vnioynted discourse, nor the hearers conceaue his vncoherent iangling.

But I feare mee, I haue mooued their patience, whom I most desire to bee patient, and to suffer without grudging Schollers to bee Lawyers, as they wish some Lawyers to become better Schollers. VVhich if it were so, then would there not bee so many vpstart *Rabula Forenses*, which vnder a prætence of Lawe, become altogether lawlesse, to the continuall molestation of ignoraunt men, and generall ouercharging of the countrey, with an ouerflowing multitude of seditious cauylers: who, when their fathers haue made some lewde bargayne in the countrey, run immediatly to the Innes of Court, and hauing in seauen yeares space met with six French woordes, home they ryde lyke braue Magnificoes, and dash their poore neighbours children quyte out
of

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of countenance, with Villen in gros, Villen regardant, and Tenant per le curtesie: much like the swarming rabble of our coystrell curates, which when their fathers haue either compounded with their Landlord for some pelting vicaredge, or payd ready money for a better parsonage, conuey themselues to Cambridge or Oxford, where hauing once knowen the price of an Admission, Salting, and Matriculation, with the intertayning of Freshmenne in the Rhetorike schooles, they returne whence they came, with their mothers wit and fathers learning carefully kept together, that when they haue wearied menne with reading skarce true English on the Sonday, all the weeke after they may plague poore boyes with false Latine in a belfraye. Or else, if the ould Parson be not yet dead, they staye a little longer, and vnder a precise cloake of Diuinitie, (notwithstanding they bee Arch-asses in all humanitie) creepe in among Batchlers of artes with crosse caps on their grosse pates, and sheepes skinnies cast ouer their lubberlike shoulders, whereof they are more prowde then euer was any foole of his bell and bauble: then come they home to ring their belles, to the vtter disgrace of the Vniuersities, the perpetuall plague of the Countrey, and euerlasting shame of the corrupted Clergie.

Yet I heare say, that some great lawyers haue had litle learning, and some good churchmen haue beene no great clearkes: VVherevnto I answere, that it were but follie to contemne ordinarie meanes, because some men haue extraordinarie gyftes, and if those rare qualities of nature had beene directed by precepts of art, I thinke they had proued much more excellent.

But to returne thither from whence I came, and to
make

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make an ende with that wherewith I began, thus much I dare bee bould to affirme, notwithstanding the praedicate concept of twenty Ciuilians, and as many common Lawyers to the contrary, that if the Ciuyll law bee elegant and delectable, the Common lawe is neyther barbarous nor vnfauiory. For the volumes, theyrs bee farre greater, and much more infinite. For the style, it is more easily determined that both bee bad, then which is better: and yet both Bartolus his Latine, and Brytton his French, in some mens iudgement is therefore sufficiently elegant, because it is fully significant. For the matter, all is Lawe, although not all one Lawe: and hee that lyketh the one, let him leaue the other, or ioyne them both together, if his leysure bee so good, and his ability correspondent.

It is not my meaning to disgrace the one, or aduance the other in comparison wise, by superlatiue woordes, and hyperbolicall amplifications: I haue yenough if I haue this graunted, that our Common lawe is as easie, as short, as elegant, and as delightfome as is the Cyuill, which euery man extollereth, and I am well content, as long as I see these twoo thinges in credite with other men, wherevnto I haue already betaken my selfe. For, as for Fortescues comparing of them both together and praeferring of ours, it maketh all with mee, yet I vrge not all: albeit I thinke, as by office hee was a Iudge in Court of conscience, so in this Treatise hee dealt not *summo iure*, with the Cyuilians, but reasonably and with *ἐπιεικειᾳ*.

But the Cyuill lawe will some man say, is both in it selfe more constant and philosophicall, and also by Iustinian more methodically, and by later wryters more
¶¶. eloquent.

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eloquently put downe.

I sayde before my meaning was not to enter into any needles discourse of comparison betweene these two lawes, yet because these bee objections of latter tyme, I must praesume a lyttle further. And first, for the constancy and philosophicall foundation of the Romaine Lawe, which Iustinian calleth the Cyuill law *νόμος πολιτικός*, (as Homer is called the Poet) the name, Cyuill, beeing common to the seuerall lawes of any peculiar kingdome: no doubt, this obiection was made by them, that heard somewhat at the Vniuersity of the Cyuill lawe, but neuer read any thing of our Common lawe. They haue *Plebiscita*, *Senatus consulta*, *Principum placita*, *Magistratum edicta*, *Responsa prudentium*: VVee haue ruled Cases, Maximaes and Principles, Customes and Vsges both generall and speciall; and lastly, continuall reformation of newe abuses by Statutes and Actes of Parliament. Now let any one skilfull in both, iudge of the reason and certainty of eyther, and remember withall, what Aristotle sayth of the imperfection of all Lawes, least hee impute that as a speciall blemishe to our Lawe, which is a generall want incident to the nature of euery Lawe.

There is no Law-maker so prouident, as that hee can in particularity foresee, and, as it were, by some propheticall spyrite fore-tell and praevent the infinite variety of future inconueniences, by application of so many peculiar prouisoos, and speciall constitutions, but must of necessity leaue his Lawe generall, referring the addition, detraction, or mitigation of woordes, vnto the conscience and discretion of the
learned.

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learned and vnderstanding Iudge . Thus much would I haue remembred, and then let that Lawe bee accused as least sufficient which is most generall , and therefore not so well able to praevent imminent mischiefes.

For, as for the methode of Iustinian, it doth not so well content the Cyuilians, but that they dayly contend with newe innouations and continuall printing of freshe methodes, to bring it vnto better order. Yet if it bee such, as some say it is, then I say, wee haue our Common lawe penned after the selfe same methode twoo hundreth yeares agoe, by that famous and learned Iudge Henry de Bracton, skilfull in both thease Lawes . And if it bee not Iustinians order that thease men fancy , but rather the late Abridgements of finer heades, let them not then with reuyling speeches discourage them, which hope to see the Common lawe of England brought to as good and easie a methode, as euer was any.

For the style of thease late Cyuilians, whiche is somewhat more laboured and lesse vnseemely then that of their forefathers, wee maye as iustly say that there is the lyke diuersitie to bee manifestly perceaued betweene the homely speach of oure auncient Lawyers, and the finer phrase of late wryters in our Common lawe. VVoordes are lyke leaues, as Horace reporteth : leaues spring before Summer, and fall before VVinter; and the same inconstancy is in words. Let vs therefore vse that phrase whiche is most vsuall : and though in knowledge and conceipt wee contend to bee singular, yet in vttering our thoughts, let all bee made partakers.

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But loe, I see on the sodayne this extrauagant discourse abruptly cut off by the importunate exclamations of a raging and firey faced Aristotelean; who seeing Ramus his Logike in some estimation, maketh small account of his owne credite in vttering such impatient speeches.

Good God, what a world is this? VVhat an age doe wee now lyue in? A Sopister in tymes past was a tytle of credite, and a woord of commendation; nowe what more odious? Aristotle then the father of Philosophy; now who lesse fauoured? Ramus rules abroad, Ramus at home, and who but Ramus? Antiquity is nothing but Dunficality, & our forefathers inuentions vnprofitable trumpery. Newfangled, youngheaded, harebrayne boyes will needes bee Maysters that neuer were Schollers; prate of methode; who neuer knew order; rayle against Aristotle as soone as they are crept out of the shell. Hereby it comes to passe that euery Cobler can cogge a Syllogisme, euery Carter crake of Propositions. Hereby is Logike prophaned, and lyeth prostitute, remooued out of her Sanctuary, robbed of her honour, left of her louers, rauysht of straungers, and made common to all, which before was proper to Schoolemen, and only consecrated to Philosophers.

I haue heard the lyke speeches to thease before this, and I looke for no better hereafter: I neuer esteemed of those, and I litle care for thease. Yet, good mayster Quiditary, if you had beene as diligent in meditation of the cause, as you haue beene ouer earnest in admiration of the effect, the knowledge of the one would haue remoued the straungenes of the other. For, if the wisdome of the auncient *Sophi* bee nowe degenerate into the ydle
subtleties.

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subtleties of the new-found *Sophistie*, what meruayle is it, if when the thing is not aunswering to the name, the name become odious?

Ramus doth not so rule, but that he can suffer reason to ouer rule him. Ould doating graybeards talke much of Baralipton, whilest younghheaded boyes beare away Logike. They thinke much that a boy should conceaue that in a weeke, which they could skarce perceaue in a yeare: but more, that their ould learning should bee corrected by newe teaching, and their labour lost with so little profiting.

Coblers bee men, why therefore not Logicians? and Carters haue reason, why therefore not Logike? *Ponum, quò communius, eo melius*, you say so your selues, and yet the best thing in Logike you make to be the woorst, in thinking it lesse commendable, because it is more common. A spytefull speech, and a meaning no lesse malicious, to locke vp Logike in secrete corners, who, as of her selfe shee is generally good to all, so will shee particularly bee bound to none. Touching the gryefe you conceaue for the contempt of Aristotle, it is needles and vnnecessary: for, where Aristotle deserueth prayse, who more commendeth him then Ramus? VVhere he hath toomuch, Ramus cutteth off, where too little, addeth, where any thing is inuerted, hee bringeth it to his owne proper place, and that according to the direction of Aristotle his rules. Then, whereas there can bee no Art both inuented and perfected by the same man, if Aristotle did inuent Logike, as hee perswadeth you, hee did not perfect it, if hee did not finish it, there is some imperfection, if there bee any want, why then allow you all?

To the Learned Lawyers of England.

But alas, see how farre I haue ouershot my marke : tis
more then time to make an ende of this raunging
digression . I ende therefore, yet with an end-
lesse desire, that no lesse profite may bee
perceaued by others in practising, then
I had pleasure in perusing this
last explication of Ramus
his Logike.

Abraham Fraunce.



THE FIRST CHAPTER

OF THE FIRST BOOKE.

What Logike is.

Logike is an Art of Reasoning.

Annotations.



Although this woord, *Logike*, be generally receaued of Englishmen, and vsed euen of them that know no Logike at all, yet for that it was a stranger at the first, I thinke it not impertinent to seeke from whence it came, and what it doth betoken: *λογικη*, therefore in Græke signifieth Reason, of *λογος*, is deriued this woord, *λογικη* that is to say, Reasonable, or belonging to Reason, which although it be an adiectiue, and must haue some such like woord, as Arte, Science, or Facultie, to be adioyned vnto it as his substantiue, yet is it substantiue taken and vsed in Latine, as also in our English tongue.

Sturmius and some others, deriue this woord Logike from *λογος* as *λογος* betokeneth speech or talke: whose opinion, although the other name of this Art (which is *διαλεκτική*, of *διαλογεσθαι*, to speak or talke) doe in some respect seeme to confirme, yet for that the whole force and vertue of Logike consisteth in reasoning, not in talking: and because reasoning may be without talking, as in solitary meditations and deliberations with a mans selfe, some holde the first deriuation as most significant.

Dialectica & Logica, saith *Hotoman*, dictæ sunt a sermone siue oratione, sed illa propriè ab eo genere sermonis, qui cum altero interrogando & respondendo commiscetur. Fictum enim verbum est *παρε το διαλογεσθαι*; quod est, verba cum altero commutare, colloqui, disputare, sermocinari, sermones cadere. Nam cum philosophorum consuetudo hæc esset, vt de rebus ad artes suas pertinentibus sæpè inter se commentarentur, eruditæ illas colloquutiones, *διαλογικη* (vt Laertius in Platone scribit) apellarunt, earumq; habendarum artem, Dialecticam, qua de causa eandem Laertius

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codem

The first Booke.

eodem loco definit artem sermonis, per quam ex eorum quibus scū sermo est interrogatione, & responsione aliquid vel confirmatur vel refellitur. Quod cum ita sit, difficile dictu est, dialecticæ nomen non eius sermonis esse proprium, qui in dialogis habetur, cum perpetua non continuatur oratio, sed in rebus singulis insistitur & intelligitur quid quisq; concedat aut abnuat, vt ex concessis disputatio concludatur. Et infra.

Ex quo intelligi potest cum & Græcorum & Latinorum consuetudine, nihil quicquam inter dialecticæ & Logicæ verbum, præter vocis sonum intersit, videri tamen Logicæ vocabulum, ad eam differendi rationem quæ perpetua oratione constat, & quâ hodiè plurimum vtimur, ac multò magis ad eas disputationes quæ literis inmandantur, accommodatum esse. Thus saie *Hottoman*.

Some others haue sayd, that this art may bee called λογική, of the internall forme, essence, and nature thereof consisting in reason: but διαλεκτική, of the externall maner and order of wordling, which is commonly done by speache and talke, as that word importeth, although Ramus vse them both as one, following Plato herein, who expoundeth διαλεκτική, by τὴν λογικὴν, which is to vse reason.

Diogenes Laertius in the life of Plato, writeth, that Plato was the first who called this Arte Dialectica, and Valla reporteth that Aristotle was the first that named it Logica.

λογική, hath a certaine relation to accompts, whereupon λογισμός, and συλλογισμός, as also λόγος it selfe whence both they come, are vsed for accompting and deducing of summes, and by a Metaphoricall sence are applied to Logike, but especially to Disposition the second part of Logike, where discoursing and drawing of one reason from another is put downe. But vse hath accepted them in a generall sence for the whole Arte of Logike, as we shall see hereafter the like in those Latine wordes, Disserere and disputare.

[Is in Art:] An Art is a Methodicall disposition of true and coherent preceptes, for the more easie perceiuing and better remembriug of the same: and this Methodicall or orderly disposition of diuers preceptes is taught in Logike, as pertaining essentially thereunto. So that Logike was deseruedly called the
Art.

Art of Arts, the instrument of instrumentes, the hand of Philosophie, because by the helpe thereof, not onely the groundes of naturall reason are artificially put downe, but all other Arts also are made to be Arts, as we shall hereafter shew when we come to the place appoynted for the due explication of Methode.

It is therefore said here, that Logike is an Art, to distinguish artificiall Logike from naturall reason. Artificiall Logike is gathered out of diuers examples of naturall reason, which is not any Art of Logike, but that ingrauen gift and facultie of wit and reason shining in the perticuler discourses of seuerall men, whereby they both inuent, and orderly dispose, thereby to iudge of that they haue inuented. This as it is to no man giuen in full perfection, so diuers haue it in sundrie measure. And because the true note and token resembling nature, must be esteemed by the most excellent nature, therefore the preceptes of artificiall Logike both first were collected out of, and alwayes must be conformable vnto those sparkes of naturall reason, not lurking in the obscure head-pieces of one or two lysterling Fryers, but manifestly appearing in the monumentes and disputations of excellent authors. And then is this Logike of Art more certaine then that of nature, because of many particulers in nature, a generall and vnfalible constitution of Logike is put downe in Art. So that, Art, which first was but the scholler of nature, is now become the maystres of nature, and as it were a Glasse wherein shee seeing and biewing herselfe, may washe out those spottes and blemishes of naturall imperfection. For there is no one particuler nature so constant and absolute, but by examining and perusing her owne force, shee may be bettered: no nature so weake and imperfitt, which by the helpe of Art is not confirmed.

Hottoman in the third Chapter of his first booke hath these wordes: Estne igitur dialectica quedam naturalis, quedam artificiosa: nequaquam: sed eius initia & semina quedam in hominum mentibus natura ingenerauit, quæ cum præceptis ac disciplinâ, tum vsu & assiduitate excoluntur. Eademq; cum aliarû artiû omniû, tum præcipuè Musicæ ratio est. Nâ omnibus a natura rudis quedâ canendi facultas data est: ab arte verò, quâ naturæ notatio atq; animaduersio peperit, certa ratio traditur. Nô enim ars naturâ

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imitatur tantummodo, verum etiam, vt veteres docuerunt, confirmat & amplificat: causamq; , cur quidq; , vel hoc vel illo modo fieri debeat, reddit, quod prestare natura non potest, eaq; sola re artifex ab inscio discernitur.

Wasserleider therefore in seeking to reforme Ramus his Logike, bewrayeth his owne ignorance, for hauing first generally defined Logike to bee an Art, hee afterwarde diuideth it into naturall Logike and artificiall, as though the naturall facultie of reason were an Art of reasoning, which is contrarie to all reason, and includeth in it selfe a manifest contradiction. To conclude this point, there ought nothing to bee put downe in Art, whereof there is no ground in nature, for ars imitari debet naturam, and as that paynter is most cunning who can moste liuely expresse his face whose counterfaytte hee is to drawe, so hee that teacheth Logike must set forth no idle conceiptes of extrauagant braynes, but the true vse of naturall reason and vnderstanding: which is a necessary confutation of that absurditie mayntayned by Logicians, and inuented in Cloysters, that ficta, yea falsa exempla, bee good enough to make preceptes playne, whereas Plato in Theeteto calleth examples, *improbus et doctus* sponsores & praedes rationes, tanquam ab eis fideiussum persolueretur. And Aristotle in the eight of his Topikes requireth such examples as Homer can affoord, not such as the pelting Poet Cherilus did inuent.

[Of Reasoning:] This our English word, Reasoning, is more proper and fit to expresse the nature of Logike, then either that other word, of disputing, deriued from disputare, or the like, as differere, and docere, vfed of Cicero and Melanchton: although I knowe that Beurehusius standeth in defence of these wordes, differere, and disputare, which Ramus also vseth: and I am not much to mislike them in respect of any other Latine word, yet not altogether to compare them with this our English word of reasoning. For the word, disputing, which cometh of disputare, it is Metaphoricall, as Varro reporteth, and so is differere: the one being borrowed of the Winemayster, the other set from the sower: for as the first cutteth off superfluous branches in his Vine, which is properly disputare, so the other disperseth his seed in diuers places, and not confusedly thzoweth all

all on one heape, which is the naturall signification of this word, differere. Now because the Logician cutteth of all idle and unnecessary curiosities, whereof there is no vse in reasoning, seuereth truth from falshood, that which followeth from that which followeth not, order from confusion, and handleth diuers arguments and axiomes in diuers places distinctly, not euerie thing in euerie place disorderly: therefore hath hee friendly presumed vpon the good nature of these two countrey men, in vsing their words of husbandrie, to expresse a more elegant conceipt, although at the first not properly, yet by continuance of time, so conueniently, as that the Metaphoricall sence is now better knowne than the naturall signification. Yet so: that both these rehearsed properties of Logike, be rather particular functions of methode, than general operations of the whole art, it is plaine, that this word disputing, with his originall disputare, and that, differere, if you respect the naturall signification thereof, cannot expresse the whole nature of Logike. Although I am not ignorant, as I said before, that Ramus and his interpreter Beurhusius, applie these words to the generall vse of this art, not restraining them to those two functions belonging to methode: whose iudgement as vse alloweth, so I do not reiect, yet by their leaue leaue their Latine words behind our English.

Melanchton vseth this word, docere: Docere, is to teach, and Logike is an art of teaching: but then marke what I meane by teaching, for you must not restraine the signification of it in such sort, as though there were no teaching but onely in schooles among Philosophers and scholemasters, or in pulpits among doctors and diuines: but generally, hee teacheth, whosoener maketh anie other man know that, whereof before hee was ignorant, whether hee do it by explication and illustration, or p[ro]ofe and conclusion: and thus if we take this word, docere, it is somewhat more generall than disputare, or differere, put downe by Tully and Ramus: yet not so ample, as the nature of this art, whose vertue is seene not onely in teaching others, but also in learning thy selfe, in discoursing, thinking, meditating, and framing of thine owne, as also in discussing, perusing, searching and examining what others haue either deliuered by speech, or put downe in writing: this is called Analysis, that Genesis,

B. ii.

and

The first Booke.

and in them both consisteth the whole vse of Logike.

As farre then as mans reason can reach, so farre extendeth it selfe the vse and vertue of this art of reasoning, whose most ample and almost infinite vse and power, hath neuer had in antient a more generall and yet proper name, than this of reasoning, as we vse it now adaies. Men reason in scholes as Philosophers, in Westminster as Lawyers, in Court as Lords, in Countrey as worldly husbands: whatsoeuer it be, nay whatsoeuer thou canst imagine to be, although it be not, neuer was, nor neuer shall be, yet by reason it is inuented, taught, ordered, confirmed: as the description of fame in Virgil, of famine in Ouid, of Elyshian fields, of Styx, of Acheron, of the golden apples, and a thousand such poetickall imaginations. And therefore Logike hath bene of a long time vtollerably abused by those miserable Sorbonicks, & dunsicall Quidditaries, who thought there was no reasoning without, *Arguitur quod sic: Probatur quod non*: no part of Logike without *Ergo* and *Igitur*. Whereas indeede the true vse of Logike is as well apparant in simple playne, and easie explication, as in subtil, strict, and concised probation. Reade Homer, reade Demosthenes, reade Virgill, read Cicero, reade Bartas, reade Torquato Tasso, reade that most worthy ornament of our English tongue, the Countesse of Penbrookes *Arcadia*, and therein see the true effectes of natural Logike which is the ground of artificiall, farre different from this rude and barbarous kind of outworne sophistrie: which if it had anie vse at all, yet this was all, to keepe the baine humors of some curious heades in obscure scholes, whereas the Art of reasoning hath some what to doe in euerie thing, and nothing is any thing without this one thing. Some Artes are appliable onely to some certayne subiect, but Logike is *scientia scientiarum*, as I sayd befoze, not tyed to one thing, but apt for anie thing, free from all, yet fit for all, framing orderly, prouing strongly, expounding playnly, perswading forcibly, any Arte, any cause, any question, any man whatsoeuer.

What then, will some man say, neede we any other Arts, if Logike alone can suffice for all? I aunswere, Logike alone is sufficient to helpe all, yet Logike sufficeth not for all. Logike telleth how to reason, dispute, examine, proue, or disproue any thing

thing, but the thing that is to be reasoned, disputed, examined, proved or disproved, that Logike cannot afford, and therefore it is to be sought for at such Arts, as profess such things, so that Logike is profitable unto all, and yet not any of them unprofitable: but even as they without this be mangled and confused, so this without them is bare and naked. Logike is necessary for a divine, yet Logike yieldeth no divinitie: but when a Preacher hath by continuall perusing of the sacred Scriptures furnished himselfe with store of matter, then Logike wil teach him how to teach others, & not onely that, but also how to learne himselfe, to defend, to confute, to instruct, to reprehend. Logike sheweth generally what an argument is, and how to use an argument, but the severall argumentes are elsewhere to be had. For as Arithmetike teacheth to counte money, not to finde money, and Geometrie to measure ground, not to purchase ground: so Logike can tell you howe to reason of thinges, and yet reserue the peculier doctrine of the same thinges to the severall professors thereof. I doe not denie, but one and the same man may purchase ground, measure ground, and also reason of the same ground, but hee purchaseth it by one Art, measureth it by another, and reasoneth of it by a third, hee purchaseth it as a worldling, measureth it as a Geometer, reasoneth of it as a Logician: and although one man may be furnished with all these three properties, yet every Art must haue her owne by the lawe of Justice, confusion must be avoided, and the preceptes of every Art distinctly put downe, although the use of the same preceptes may be common and concurre altogether in one man, if one man be skilfull in all these Artes.

Ramus addeth this word, well, in the ende of the definition, which me thinkes were as well left out as put in, for although it may seeme to sever the perfection of Art from the imbecillitie of nature, yet indeede, the very name of an Art, includeth this word, well: every Art being an habite of doing that well whereof it is an Art. Howsoever it be, it appeareth, that to reason well and artificially, is the duetie and ende of Logike: for it is not essentiall unto Logike alwayes to perswade, no more then to a Physitian alway, to heale, but to performe those

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things which are prescribed in his Art, although the hoped
event and successe do not alwayes ensue.

The second Chapter.

Of the partes of Logike, and the severall kindes
of Argumentes.

Here bee two partes of Logike, Exposition of the na-
ture of argumentes, and Disposition of the same.
Exposition is the first part of Logike which expoun-
deth the diuers kindes of argumentes by their seue-
rall affections and mutuall relations one to another. which for
that it helpeth to inuent argumentes, is called Invention. An
argument is any severall concept apt to argue that whereunto
in reason it is referred.

First, an Argument is either inhaerent, or set elsewhere.
Inhaerent is that which is inuented by consideration of the na-
ture of the thing argued: and is either originall and first or se-
condary and deriued. First is that which hath his beginning
of it selfe. It is agréable or disagreeable. Agréable is that
which agréeth with the thing which it doth argue. The agré-
able is either fully agréable, or agréable in part: fully agré-
able is that, where there is a greater coherence and affinitie
betwene the argument and the thing argued: fully agréable
is first, the cause and the thing caused.

Annotations.

The Art of Logike, as is declared already, layeth downe the
right vse of naturall reason: and this that wee call the wing
or declaring how to reason, is no gining of reason to him that
had it not, but an applying or directing of the minde to the view
and contemplation of that, which of it selfe it might perceane,
if it were turned and framed thereunto. For, as Plato sayth,
7. de repub. the trueeth of the things comprised in Arts is as na-
turally propounded to the view of the minde, as colours bee
to the sight of the eye: and therefore Aristotle in his first booke
of

of Elenchs hath set downe that which common experience doth
 confirme, that every common person or silly soule vseth Logike.
 in some part, and practiseth of himselfe by naturall instinct that
 which artificiall Logike doth prescribe in her severall rules
 and constitutions. Artificiall Logike then is the polishing of
 naturall wit, as discovering the validitie of euerie reason, bee it
 necessary, wherof cometh science: or contingent, whence proce-
 deth opinion. Although I knowe there is a great controuersie
 and contention among the auncient Philosophers, concerning
 these two: whilest some of them mayntayne onely Science,
 some others holde with opinion onely. Heracitus called opi-
 nion the falling sicknesse, for that thereby men manytimes
 fell headlong into diuers delusions and erroneous conceptes.
 So in like maner, the Stoikes held this for one of their Para-
 doxes, that Sapiens nihil opinatur, a wise man is not opina-
 tiue, a wise man neuer iudgeth according to opinion. On the
 other side Anaxarchus was of this opinion, that all mans iudg-
 ment was but opinion, and that his vnderstanding coulde per-
 fectly vnderstand nothing, which the Pyrrhonians taught after
 him, and the new Academikes: and a man may coniecture that
 Plato and Aristotle sometimes inclyned that way; for Plato in
 his booke called Timæus, ascribeth truth to God and Gods chil-
 dren, leauing nothing but truelike to mortall men, and Ari-
 stotle in the second of his Metaphisikes compareth mans vn-
 derstanding in respect of perfect knowledge of trueth to the
 dazeling eyes of a Batt in the broad day light. But yet not-
 withstanding these forealleged places, both Plato and Aristotle
 haue elsewhere evidently declared that man is capable both of
 Science and certayne knowledge, as in thinges containd in
 Arts: and also of opinion, as in infinit affaires which are dayly
 incident: and this was long before their tyme, elegantly put
 downe by the famous Poet and Logician Parmenides.

χρὲν δὲ δὲ πάντα πῶδε δοῦναι,

ὡς μὲν ἀληθεῖαν εὐπέδου ἀτρεκέως ἦτορ,

ὡς δὲ ἐρωτῶν λόγου, τῶν τε ἐπιπίσις ἀλῆθης.

Oportet verò te omnia nosse,

Tum veritatis suasu facilis sententiam,

Tum verò mortalium opiniones, quarum non amplius fides vera.

C.

Because

The first Booke.

Because of these two kinds of conceptes, Aristotle would needs make two Logikes, the one for Science, the other for Opinion: wherein (if so it may be sayde of so great a Philosopher) it seemeth hee was but an Opinator. For although among thinges concealed and knowne, some bee necessary and infallible, some doubtfull and contingent, yet the Arte of knowing and Reasoning of the same (I meane Logike) is only one and the same, as the sight of the eye in perceyving all colours, bee they chaungeable or not chaungeable. And aswell might a man say there must be two arts of Grammer (if Grammer bee a distinct Art) one for courtly speeche, an other for country talke: or two distinct arts of making of cups, one for golden cuppes, an other for cuppes of siluer, as two Logikes, one for infallible Argumentes, and another for Contingent. There fore one Logike sufficeth to dispute of all thinges, necessary or contingent whatsoeuer. Yet this one Logike her selfe in respect of her preceptes is alway necessary and neuer contingent, for otherwise it were no Art, but the application of it may bee in contingent causes aswell as necessary.

[Two partes of Logike:] The Stoicall division of Logike into Inuention and Iudgement, although both Aristotle himselfe seeme to commend it in some places, as in 8. Topi. 3. Rhet. and Tully. and Quintilian doe altogether obserue it, is yet reprehended of some, who thinke that Iudgement is not any seuerall part of Logike, but rather an adiunct or propertie generally incident to the whole Art: because, say they, there is vse of iudgement euery in inuention. But in my fancie they might better haue founde some fault with these wordes, Iudgement, and Inuention, then reprehended the distribution, which is most true, if they consider what the Stoikes did vnderstand by these wordes. For by the first part called *inuentio*, they intend the explication of the diuers kindes, natures, affections, relations, and proprieties of seuerall argumentes, which because it helpeth inuention, is called Inuention, as I sayd before: although indeede a man shall no more finde argumentes by this first part of Logike, then hee shall get Latine wordes by Etymologie the first part of Grammer: which made me alter the wordes, as not proper, but rather borrowed from the Mathematickes, where two

or three numbers being received or put downe, a third or fourth number proportionable is found out, which of them is called *duplex*. Invention.

And by *terminus*. Iudicium, Judgement, is meant nothing els, but a Disposition, ordering or placing and setting of these severall argumentes already invented, to the intent that a man may the better iudge of them, so that here Judgement is taken for Disposition, the effect for the cause, for Judgement ariseth of the ordering and disposing of arguments.

They might therefore haue chaunged the wordes, and kept the thing, which yet they haue not done: but brought in new diuisions of Logike, correspondent to the setting and placing of Aristotles Logieall discourses in his booke called Organon: sometimes into three partes, as Apodicticall, Topicall, Elencticall, sometimes into two, by name Apodicticall and Dialecticall. Topicall, or Dialecticall they will haue to be a severall kinde of Logike by probable argumentes, Apodicticall, that which disputeth by necessary conclusions, as though there were not one and the same Art, Science, and order of reasoning both by probable and necessary argumentes, as I sayde before, and the selfe same places of argumentes both in the one and in the other, as causes, effectes, subiectes, adiuncts, &c. both contingent and necessary. For, as for that third kinde of Logike, which they call Elencticall, seeing it is no Logike at all, but rather the abuse and peruerſion of Logike, I see no cause why it should be taught in Logike: yet if any man thinke that the true preceptes of Logike once knowne, will not be sufficient to descry the falsenesse of sophistieall argumentations, he may for his contentation seeke for a full discourse thereof out of some commentarie, and not overcharge the Art it selfe with vnnecessary institutions. I graunt there is something profitable in the Elenches, as also in some other tractates of the same kind, but if we shall put downe all in Logike, for true Logike, which doth in any respect helpe Logike, we shall neuer make an ende of Logike.

[Exposition is the first part:] As in Grammer, Aetymologie concerneth severall words, and Syntaxis the due coherence of the same, so Exposition the first part of Logike, declareth the particular affection and nature of every severall argument, and

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Disposition the second part, by ordering and setting the same, causeth iudgement and vnderstanding. And as severall words bee in respect of Grammer, so severed reasons in respect of Logike, and as of many words is made speech, so of diuers arguments arise axioms.

Exposition and Disposition are not two severall arts of Logike, as though wee should haue one Logike to expound the natures of severall arguments, and another to iudge of the same by Disposition, but they bee two essentiall parts of the whole, which ioyned together make one true Logike.

The doctrine of Invention or Exposition is generall, and not restrained onely to the finding out of a Medium, which they commonly take for the onely argument, but absolutely and vniuersally applicable to the inuention of any thing, either true or fained whatsoever.

Againe, the arguments in Invention must bee considered severally, singly, and alone, then after to bee disposed and ordered by certeine precepts, thereby to iudge of the truth or falsenesse of the same: as for example.

Paris A good shepheard.

These two singly put downe as two arguments, to wist, the subiect and the adiunct, are afterwards disposed in an axiome, to iudge of the truth thereof, as thus:

Paris is no good shepheard.

But because this proposition is contingent and doubtfull (for the arguments bee but in part agreeable) therefore it is confirmed by another argument, that is to say, by an effect and working of *Paris*, I mean: that which Thomalin putteth downe in July, in these words.

But nothing such thyllk shepheard was
whome *Ida* hill did beare:

That lest his flocke to fetch a lasse,
whose loue he bought too deare.

So then, here bee three severall arguments, or two ioyned in the axiome before, and the third following in these verses of Thomalin: which third they call, Medium, or third argument, thus:

Paris

The first Booke.

7

1 Paris: 2-A good shepheard,

3 To leaue his flocke to fetch a lasse.

Whereof it is concluded in this wise syllogistically, by dis-
ioyning the two first arguments, the subiect and adiunct, Paris,
and, The good shepheard.

Hee that leaueth his flocke to fetch a lasse, is no good
shepheard:

But Paris did leaue his flocke to fetch a lasse,

Therefore Paris is no good shepheard.

That which they call Medium, and third argument, is, as it
were, an Arbitrator honorarius, a determiner, a reconciler, a daies
man: which if it agree with both the other arguments, maketh
the conclusion affirmatiue: but negatiue, if with one onely, as
in the former example of Paris, the Medium, the arbitrator, the de-
terminer, is that effect of Paris, To leaue his flocke to fetch a
lasse: which because it is agreeable with the nature of Paris, but
is flatly repugnant to the dutie of a good shepheard, therefore is
the conclusion negatiue, Paris is no good shepheard. So in
Gaister Ploidents reports, fol. 474. Saunders is a murderer. The
Medium is that effect of Saunders, to minister venim to the intent
to poison: which, because it agreeth as well with the nature
of murder, as the affection of Saunders, maketh the conclusion
affirmatiue, thus:

Hee that doth minister venim to poison any one, is
a murderer:

But Saunders ministered venim to poison one,

Therefore Saunders is a murderer.

In this order, first of single arguments we make axioms:
which axioms, if of themselves they be perceiued and graunted,
they be straightway indged as true or false. And this is the first
part of iudgement in axioms, called axiomaticall, determining
only truth and falsenes in propositions or axioms. Now if these
propositions be doubtfull, then therof be made questions, which
are to be proued by third arguments, set from the affections of
the other two which were ioyned in the axioms, and lastly are
to be concluded by syllogisme, the onely indge of all coherence
or consequence: as finally, Methode hath only to deale with the
ordering and setting of many axioms, thereby to giue sentence

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of methodicall proceeding or vnoorderly confusion. And therefore I see no reason why I should with the common Logicians, chop in Canons, Maximaes, and rules of consequence, as they call them, applying them to euery argument of inuention, seeing that syllogismes, and onely syllogismes are the true and onely rules of consequence and inconsequence, as I said before.

The occasion, as I thinke, of this their error, hereof arose: because if an Enthymeme be denied, we commonly confirme it by some axiome, which indeed is nothing els, but the supplying of the part wanting, as either the Maior, or Minor, as they terme them, or els some prosyllogisme. And this rule, Canon or Maxima, being so supplied, a plaine syllogisme proceedeth, the onely determiner of coherence. And as all the force of consequence is in syllogismes, so all the vertue of arguing is in the seuerall affection of euery argument to the thinge argued: whiche affection is truly and artificially put downe in Inuention: in such sort that from euerie definition, and precept in Inuention, such rules, maximaes, canons, axioms, consuetaries, corollaries, or howsoever you tearme them, may easily be deduced: and, when necessitie requireth, shall be of vs put downe distinctly in their seuerall places. For, as for most of those outworne maxims huddled vp in scholes, they be either vnnecessarie, and may be easily perceaued by the definitions and explications of the arguments, or els not generally true, but in part: and therefore in no wise to be put downe in art, but rather to be reserued for Commentaries, as that, Quod efficit tale, magis est tale, &c. which cannot stand, but by a number of friuolous and sophistical distinctions. Let him read Beurhusius, if any list to see the true canons of Ramus his Logike, compared at large with these same rules. It shall suffice at this time to vnderstand, that the true maximaes, or canons of Inuention, are nothing els but certain rules concerning the seuerall force or affection of arguments: The canons of axioms, such precepts as declare the vse & force of axioms: and so, in a word, the canons of syllogisms and methode, are precepts touching the consequence and inconsequence of the one, & the perspicuitie or confusion of the other. Neither are there any rules of consequence at all, but only those of syllogisms. I haue in my text kept my selfe onely to such maximaes
both

both in Invention and Disposition, as are put downe orderly by Ramus, and are essentially belonging to this art: yet for the satisfiing of the expectation of some yong Logicians, somewhat vnacquainted with this newfound Logike, as it pleaseth some to learne it, I will hereafter, as occasion shall serue, put downe in the annotations, some of the other stampe.

But here may a doubt arise: For, seeing that euery axiome and rule of Invention is a part of Iudgement (because it is an axiome, and euery axiome is of iudgement) it may seeme that Invention and Iudgement be not distinct parts, but rather, as was objected before out of Carpentar, confounded the one with the other. I answer, the rules and precepts of Invention bee indeed axioms, and therefore consequently proceed from Iudgement: but so, as you must take them to be the fruits of Iudgement already shewed in ordering the axiomes and rules of Invention: or examples of Iudgement, teaching the part of Invention: Not as though these precepts were put downe in Invention to teach a man how to iudge, either axiomatically, syllogistically, or methodically, which onely belongeth to the second part of Logike called Iudgement or Disposition: And if you so take them, then euery axiome is not straightway a part of Iudgement: but onely such rules and precepts, as teach to make, order, and frame axioms. For otherwise, euery precept of euery art, because it is an axiome, should bee taken for a part of Iudgement in Logike: whereas indeed they bee but the fruites and examples of that Logitall iudgement appering in the orderly constitution of euery art. And so in Invention, euery rule is an axiome, euery rule doth iudge, but euery rule teacheth not how to frame an axiome, euery rule sheweth not how to iudge, which onely is the peculiar duetie of Logitall iudgement.

The art and doctrine of euery argument, is distinct, firme, constant, and immutable: yet the affection of arguments may bee altered, changed, and diuersly considered, either in the same things diuersly compared among themselves, or in one thing referred to diuers, as in those examples, put downe by Beurhusius and Talaus.

The first Booke.

{

 Created man.
 Preserueth man.
 Is not man.
 Is not like man.

}

 So the
 affectio
 is of the

{

 Cause procreant to the effect.
 Cause conseruant to the effect.
 Disparats among theselues.
 Unlikes among themselves.

Where the things be as they were, I meane, God, and Man, which are here compared together, yet the diuers kinds of relations and respectes, make the selfe same things haue diuers names and titles, according to their seuerall and diuers affectiōs.

In like manner also it is, if one thing be referred to many, and diuine, as it were, through the places of arguments, although some arguments be not incident to some things:

As, Man referred vnto	God, his maker, Body, his matter. Reason his forme, Gods glozy, his end, Actions, his effects, Body, his part, Worlde, his whole, Lining creature, general, Paule, speciall, Earth, subiect, Riches, adiuncts, Tre, his disparate, Beast, contrary, Homo ab humo, the notation. Reasonable, lining, Creature, definition, Angell, equall, Blub, like,	hath an affecti- on of	Effect procreated. Effect materiall. Effect formed. Effect finall. Cause. Whole, Part. Speciall. Generall. Adiunct. Subiect. Disparate. Contrary. Same inter- preted. The thing de- fined. Equall. Like,
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Yet the art is certeine and immutable, for, that which is a cause, can neuer be an effect in the same respect and relation, which relation chaunging, altereth the argument, not the art.

[An Argument:] Every thing hath his seuerall name according to his naturall proprietie, or by the imposition and fangie of man, but Logike respecting a second vse in these seuerall things,

things, hath given them an artificiall and secondary name. As, fire hath this his name usually knowne : but because it is sometimes considered of Logicians, as a cause of heate, therefore hath it his second note and name, and is called a Cause, one of the arguments, so that it argueth heate as his effect, and so in others. And by this affection we learne whether one argument agree or disagree with another, and how it agreeth, whether as a cause with his effect (which is an absolute and full agreement) or as an adiunct with his subject, which is but an agreement in part, and after a certaine manner, and so of the rest. So that argumentes be nothing els, but singularum rerum affectiones extra collocationem consideratz, quibus ad arguendum sunt affectæ & comparatz, sed vt Grammatica non voces, non vocum significationes, sed vocum affectiones, sic Logica non res, non rerum naturas, sed rerum inter se habitudines explicat. Itaq; omnia argumenta sunt relata : sed quia istæ relationes variz sunt, itaq; varia sunt argumentorum genera. This affection of argumentes is by Hottoman expounded in this manner. Affectio ista est ratio quam quicq; res habet ad alterâ. Græci λόγος appellant, itaque commodius rationem appellare possemus, sed vitandæ ambiguitatis causa, nomen affectionis delegimus, quo eodem Cicero, & in topicis, & in partitionibus hac eadem in re est vsus. Rationis autē verbū à Mathematicis sumptum est, qui λόγος definiunt duarum eiusdem generis quantitatum comparationem; interpretes proportionem Latine nominarunt; quidam habitudinem : nonnulli habitum : qui commodius, respectum : barbari fortasse correspondentiam appellarent. Huius vis ac facultas ea est, vt declaret, quænam rei cuiusq; cum altera ratio sit, quemadmodum inuicem affectæ sint, quo modo se inter se habeant, qualis inter ipsas comparatio aut affectio sit; sitne pars an totū, genus an species, consentanea an dissentanea, &c.

[To argue:] To argue, is generall; either in inuenting onely one argument by the affection of the other, as when by the notion of the cause we take the effect, or els in placing them arionatically, syllogistically, or methodically, we argue some other thing either by explication or confirmation.

The first consideration is of arguments severally conceived

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and

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and alone by themselves, the second as they be placed by disposition: and therefore Piscators animadversion in this place is to small purpose, whereas he reprehendeth Ramus, for saying that every letterall thing considered alone is an argument. For he in so saying meant not, that an argument should be so alone, as though it had no affection or relation to any other thing, but so severally considered, as that in Invention we should not intermeddle with arithmetical, syllogisticall, or methodicall conioining and setting together of the same severall arguments, for that both wholly and only belong to Disposition.

[Any severall concept:] Except those wordes which do but bind and knit together the parts of speech, as coniunctions, which signifie no severall and distinct thing in nature. Except againe copious and Rhetoricall phrases, where many wordes expresse but one thing, as, A man of an excellent and heavenly wit, where the wordes be many, the arguments but two, that is, the subject and the adiunct. Lastly, except full comparisons, divisions, definitions, and descriptions, where the argument is put downe in a whole proposition. This is Beurhusius exception, although to small purpose: for Ramus saith not, all such wordes as are alone, but all such reasons, concepts, and thinges as are alone, and by themselves considered severally, as these arguments be which he here excepteth: for though there be many wordes, yet they all expresse but one concept of reason, and that is this single and sole argument which we here talke of.

But to let that passe, he that taketh this word Argument, onely for a proofe or confirmation, devalueth himselfe, and devalueth Logike of halfe his dignitie. Indede it is usually taken for that thing onely which doth prove and confirme, but here it hath a more generall signification, and dothokeneth not onely confirmations, but also declarations without any syllogisme or forme of concluding, and so doth arguere in Latine signifie, declarare, ostendere, perspicuum manifestumque facere, vt in Virgilio.

Degeneres animos timor arguit, id est, ostendit.
 Yet neuertheless the same kinde of argument may commonly

monly serue both to declare and to confirme (although some there be which onely declare) so in the end of the first Aegloge of the shepheardes Balender, Hobbinol vseth an argument of the cause, onely for explication sake.

Ah faithlesse *Rosalynde*, and voide of grace,

Thou art the roote of all this ruthfull woe.

And in the ninth Aegloge, Diggon Dany vseth the same kinde of argument to the same purpose.

Their ill haviour garres men missay,

Both of their doctrine and of their fay.

And yet here the cause argueth the effect, although there be no syllogisticall probation intended, for that the proposition of it selfe seemed to Diggon true inough. And in our lawe, In euery count, barre, replication, reioynder, &c. Argumentes of asseueration and exposition be almost used as those of profe and conclusion. Now for the other parte, no man doubteth but that an argument of the cause may be very well used for confirmation, wherof examples are euery where apparant. Yet no man therefore thinke there is no Logike, where there is no syllogisticall conclusion, for euery argument serueth not euery where onely for confirmation.

[Inherent:] I vse this word till I mete with a better. I meane not so Inherent, as though it should alwayes agree with the thing argued, for many times it is flatly repugnant thereunto, but so conioyned, as that the thing argued in maner offereth the argument to the Inuention of the Logician, and this is true in disagreeable argumentes: otherwise it is in testimonies, which be as it were borrowed from other matters, and brought to the Logician to be framed accordingly.

Ramus diuideth an argument into artificiall and inartificiall, wherupon Piscator toke occasion of reprehension. For I see no reason, sayth he, why testimonies shoulde be called inartificiall argumentes, seeing that there is as good Arte shewed in applying them, as in finding other argumentes: and if in Art there ought to be nothing without Art, either Inuention wanteth Art, or testimonies are not inartificiall, they answer him thus, They be not called Inartificiall, for

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that

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that they want Art, but because they argue not of themselves, but by the force of some artificiall: Which answer doth not fully satisfie me: For the testimonie of God argueth most absolutely of it selfe, neither can we well say, that his testimonie were not to be beleued, vnlesse hee were verus, bonus, iustus &c. sith we cannot distinguish these so from his diuine essence, but that whatsoever is in God, is God: and therefore it is an vnfallible argument, God spake it, therefore it is so, ipse dixit, is here sufficient, neyther néede we seeke for any artificiall argument to confirme it, as we doe in the testimonies of men.

I holde on the same course which Ramus doth in deuinding still by certaine steps and degrees, till I come at last to the lowest. For it were against Platoes precept and all Arte, to iumpe abruptly from the highest and most generall, to the lowest and most speciall, without passing by the subalternall.

[First:] First may be conceiued of it selfe, without respect had to any other, as not depending on those that follow. So the cause may be knowne without any mention of a definition, but the definition can neuer be conceiued without notice of the cause, as being made thereof: therefore the cause is first and originall, the definition secondary.

[Fully agreeable:] Scribonio & Piscatori non placet ista distinctio: nam si Logice considerentur, æqualis & eadem est consensio: nam subiecta & adiuncta æque non possunt alterum esse absq; altero, atq; causa & effectū: si physice, tum accidentalis illa consensio est æq; in his & illis: nam faber potest non facere, quomodo puer potest non esse tinctus literis. Et nec omnis causa essentialiter conuenit cum effecto, nec omne subiectum accidentaliter cum suo adiuncto. hæc illi: Quia tamen diuersi sunt gradus dissentancorum, idē & consentancorum videntur esse eodem modo. Itaq; hic nihil mutauimus, hæreo.

These generall heades of argumentes haue bene diuersly tearmed of diuers Philosophers, as appeareth by Diogenes Laertius, and Aristotle. For sometimes they are called Cate-goremes, and the handling or discoursing of the same, Categories, both which are Greeke wordes of like signification,
boꝛrowed

borrowed from the place of iudgement, and applied to philosophical conceipts. *καταγορεύειν* significeth to say, or affirme one thing of an other, as in accusations it is usually sene, and in arguments easily perceaued: where one thing added to an other, is affirmed of the same, or else denied. Otherwhiles the preceptes of them be called *τόποι*, whereupon, Aristotles bookes where these be handled, are intituled *τοπίκα*. *τόπος* is a place, and therefore Tully called them in Latine, *locos, sedes, fontes, places, seates, springs* or *fountainnes* of argumentes. Sometimes they haue more apt and easie titles, as when they be called *Principles, Elementes, Reasons, Prooves, Argumentes, Termini* and *Media*. Of all which, I vse for the most part, this word *Argument*, and sometimes *Reason*, and *Proove*, as most usuall and significant, the rest being rather straunge and metaphoricall.

The third Chapter.

Of the efficient and materiall cause.



Cause is that by whose power and force a thing is caused: therefore this first place of Inuention is the fountayne of all knowledge, and that thing onely is knowne, whose cause is vnderstande. A cause is eyther before the thing caused, or els, in and with it. The cause before the thing caused, is eyther the efficient or the material. The efficient is a cause from the whiche a thing is: which although it cannot be artificially deuised, yet it may be for order, thus distinguished. First the efficient worketh eyther of it selfe and by his owne proper force, or els accidentally and by some external power. By it selfe, either naturally as the windes blowe, the fire heateth, or with aduice and voluntary deliberation as man in his seuerall actions. Accidentally, eyther by necessitie, as when the efficient is by some violent compulsion contrayned to do this or that, or by chaunce and hazard, when any thing happeneth contrary to the purpose and intent of the worker,

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as if a man digging for stones shoulde finde treasure, which comming to passe by some secret cause, is by vs ascribed to fortune: Secondly the cause efficient either worketh alone, which of it selfe without any help of others bringeth to passe his effect, as fire heateth, these be *αἱ αὐτὴν ἐνεργούσας καὶ μόναι*, or with others, which is holpe by others, these be called *συνεργούσας*, this is either principall, which in working ruleth the instrumental, as the Carpenter the axe, or instrumental which is vsed of the principall: and is eyther idle, and of it selfe hath no action, but is onely moued of the principall, as the Salue of the Saviour, or helping, as being moued of the principall, and yet mouing it selfe also, as all such instrumentes which haue life, as the Ox ploweth partly by his owne motion, partly moued by the plowman. Agayne it is such as the efficient cannot worke without it, as the writer without a pen, or contrarily.

Lastly, the cause efficient either maketh or destroyeth: that which maketh causeth a thing to be *γενέσθαι*, and doth either procreate or bring forth that which was not before, as God the world, king Lud the Citie of London, or preserve and keepe that in being which before was procreated, as God the world, magistrates the cities. The destroying is that which causeth a thing not to be that was, and doth eyther utterly abolish and make that to haue no being whiche before was, as the floud, or in part destroy and deface, as sickness the body.

In Iune Hobbinoll reciteth a number of particular efficients of delight and pleasure, describing thereby the place where hee was, thus:

Loe Collyn heere the place whose pleasant syte
From other shades hath weand my wandring minde,
Tell mee what wants mee here to woorke delyte?
The simple ayre, the gentle warbling winde,
So calme, so coole, as no where els I finde.
The grassy ground with dainty daylies dight,
The bramble bush, where birds of euery kinde
To the waters fall their tunes attemper right,

Collyn

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12

Collyn in the first Egloge maketh loue the efficient of
his weale and woe.

A thousand sithes I curse that carefull howre,
Wherein I lou'de the neighbour towne to see,
And eke ten thousand siths I blesse the stowre
Wherein I saw so faire a sight as shee.
Yet all for naught, such sight hath bred my bayne,
Ah God, that loue should breede both ioy and payne.

In April Hobbinoll declareth the procreant causes of Elissa.

Pan may bee proud that euer he begot
such a bellibone,

And Syrx reioyce that euer was her lot
to haue such an one.

And in Iuly, Thomalyn describing that tyme of the yere,
poetically, in the ende byingeth in the doggestare as cau-
sing death.

And now the sunne hath reared vp
his fierie footed teame

Making his way betweene the cup
and golden Diademe.

Such examples as
want in the Ka-
lender, shall be
supplied out of
our lawe.

The rampant Lyon hunts hee fast
with dogge of noysome breath:
Whose balefull barking bringes in haste
pynes, plagues, and dreary death.

In May, Piers bleseth conseruant causes.

But tract of time, and long prosperitie,

That nourse of vice, this of insolencie:

Lulled the shepheards in such securitie, &c.

Maister Plowden, folio, 262: a: Et quant a ceo, ils disoy-
ent, que le forseture icy auera relation al temps del oziginal
offence commence, que enforce le mort, et ceo est le metter
luy en etwe, et ceo suit fait en sa vie, et ceo est fait selony, et
l'enditement dit, et doyt dire, que il mist luy en le eawe selo-
nousement. Car ceo que cause mort, doyt estre dit selonouse-
ment fait: et pur ceo si vn percuss vn autre, il intq; apres, il
de ceo mort, l'enditement doyt dire, que il luy selonouse-
ment percusse, il intque selony est attribue al acte, lequel acte
est fait par vne home, et en la vie, come Browne dit, Car il

D.iiij.

die

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dit; sir James Hales fuit mort, et coment enseigne il al mort? Poet est rebit per surrounde, et que surrounde luy: poet estre responde, sir James Hales. Et quant fist il ceo? Poet estre responde, en son vie. Munt que sir James Hales esteant en vie causa sir James Hales d'estre mort, et l'act del vint home fist le mort del mort home. Vire sir James Hales did of himselfe voluntarily browne himselfe.

Munt. Fol. 366. Si estrange al fine, que est de bon memoze, deueigne de non sane memoze, ou est impzison le tierce an apres les proclamations fait, et istint continue tanque les cinque ans soyent expire, et puis il vyent en son memoze, ou est hors del pzison, il ne serra conclude: car laches ne puit estre assigne en luy que fault memoze, ou liberte en son prosecution, et pur ceo ne fueront comprehendre en le entent. Mes s'en ces case lestraunge al fine, en le tierce an, vst ale ouster le mere, ou vst prise baron, et istint vst continue tanque les cinque ans vssent estre passe, la ils serront lye. Car le aler ouster le mere, ou pzender del baron fueront acts voluntarie: Mes insanitie del memoze, et impzisonment sont enconunter le volunt del partie, et istint ils disoyent, que reasonable sence doyt estre adde al letter.

Fol. 9. b. 13. b. 18. b. 19. a. b. Les parols del ley de nature, del ley de ceo realme et dauter realms, et del ley de dieu auxi boile yelder et doner lieu a aucun acts et choses faits enconter les parols de mesme le leys et ceo est lou les parols del ley sont infringe pur auoyder greinder inconueniencies, ou pur necessite, ou per compulsion, ou per involuntary ignorance. Pur auoyder greinder inconueniencies, come le bater del person de aucun home en aucun cases, vncoze le batre et naufre de aucun home per aufer, est cybien enconunter le ley de nature, come enconunter le ley del terre.

Mes vncoze en 22. lib. ass. lon home fuit en arrage et non sane memoze, et fist grand male, et le home, et les parents auxi luy pzisseront, et luy tieront, et bateront oue vierges, et est la tenuis, que ils puissoyent ceo iustifier en auoydance del grand male que il puilloit faire, esteant de non sane memoze. Et vncoze le ley de nature, et le ley del realme prohibite generalment aucun de bater aufer:

mes

mes cest especiall case pur auoyer de greinder mischiese, ad vn exemption et speciall priuilege. Et nous voïromus auri (come iay dit) que necessitie en toutes leys serra bone excuse, et que tous leys done lieu al necessitie. Car il est commun pouerb, que Necessitas non habet legem : et pur ceo, In præcipe quod reddat, le tenant excusera sa default per cretein de cas, et vncoze chescun default est abhoze en nostre ley, pur ceo que il est vn contempt del court:mes pur ceo que sans perill de mozt, il ne puit veigner, le necessitie del chaunce en tiel case, entant que nul default est en luy, luy excusera.

Ilint enfriender del prisõ est felony en le prisonner mesme per lestatute De frangentibus prisonam, vncoze si le prison soit ignie, et ils que sont eins, enfreindze le prison pur le saluation de lour vies, ceo serra excuse per le ley del reason : et vncoze les parols de lestatute sont encounter ceo. Ilint in 14: H.7. les iuroz que fueront iures sur lissue, pur fear d'un grand tempest departont dillonques et seuerõt eur mesmes, et fuit la tenus que ils ne serra amercies, et que lour verdit apzès fuit bone, et que ils ne fesoient malement, et ceo fuit ilint tenus pur le necessitie del chaunce : mes auterment ils serra grénousement punye. Et ilint pur saluation de ma vie, ieo puis tuer auter que assault moy. Car coment que effusion del sange, et tuer des homes est prohibite per le comen ley, vncoze chescun home en son desence, ou come champion en tryall en bziese de droyt, ou tiels semblables poient tuer autres : et ceo est pur le necessitie del saluation de son vie en son desence, et en l'auter case pur le necessitie del triall.

Ilint per le comen Custome del realme, les hostelers serra charges pur les biens de lour gesses perdus, ou embeles de lour measons : vncoze si lour measons soyent enfreints per les enemys de roy, et les biens dillonques prises, ils ne serra charge pur eur. Car per reason, ceo ne poet estre resist : et pur cest cause ceo violence infringera le violence del custome. Et auri le ley de Dieu done lieu al necessitie. Ilint que les parols del ley de dieu poient esse infringe per necessitie sans offence al dieu : et pur ceo en le biel ley, per le ley de dieu il fuit prohibite que nul comede roit le sacre pane s. panem propositionis : vncoze il ap-
piert

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piert que Dauid pur necessitie de samyne comede le blé pane, et il ne infringe le ley, coment que il infringe les parols del ley, come Christ mesme declare en le gossell, pur ceo que il ceo fist pur necessitie.

Issint les Apostles del Christ per necessitie del samyne auoient les spices del frument dauters persons, et les comederent, et coment que ils infringe l'epresse parols del sacre scripture, que prohibite a prendre les biens del auters sans le volant del owners, vncoze ils ne offenderont per ceo, come il apiert per le gossell. Issint que per ceur causes nous voyons que le ley des homes et de dieu yelde et done lieu al necessitie.

Et compulsion auri est bon excuse en nostre ley, come si home fist obligation per dures, il auoydera ceo. Issint si le brache de ascun est fraie per compulsion, et le weapon en son mayne tue vn auter, ceo ne serra felony: et issint en tous auters cases lou home fait chose esteant a ceo coact et compell, il ne serra pur ceo damnisie. Et auri si home infringe les parols del ley per involuntary ignorance, ceo n'est enfreindre del ley. Come si vn infant de tender age tue vn home, ceo ne serra felony en luy, pur ceo que il nauoit discretion, ne intelligence, et pur ceo le ley impute ceo a son ignorance, lequel est a luy a ceo age per nature, et issint nul default en luy, et pur ceo il est dit involuntary ignorance. Car il ne puit estre sapient ne sage, coment que il boil, mes est ignorant per compulsion, et pur ceo il serra excuse, et tiel act est proprement dit desre fait ex ignorantia. s. lou involuntary ignorance est aiudge le cause del act. Issint si vne home de non sane memoire tue vn auter, coment que il ad enfreint les parols del ley, vncoze il nad enfreint le ley, pur ceo que il nauoit aucun memoire, ne intelligence, mes mere ignorance, lequel vient a luy per le main de dieu; et pur ceo est dit involuntary ignorance; a quel le ley impute le act desre fait, en tant que nul default est en luy, et pur ceo il serra excuse, entant que il est ignorant per compulsion, et tiel act est dit et terme desre fait ex ignorantia, s. eoque involuntary ignorance est le cause. Et in Deuter. in principio cap. 9: Dieu prouide especiall remedy, que cesty que fist chose per tiel ignorance

noyance ne serra puny pur ceo : car la il est oꝛdeigne , que si vn laboꝛer est al laboꝛ one vn hatchet , et le test del hatchet eschue, et tue vn que est south luy, que tiel laboꝛer ne serra mise al mozt, mes vn especiall ville sult oꝛdeigne pur sanctuary pur luy, pur ceo que il ceo fist per inuoluntary ignoyance. Mes lou home enfreint les parols del ley per ignoyance voluntary, la il ne serra excuse : come si vn home que est pure, s,drunke, tue vn auter, ceo serra selony, et il serra pendu pur ceo, et vncors il fist ceo per ignoyance. Car quant il fait pure, il nauoit intelligence ne memoꝛy : mes entant que ceo ignoyance vient a luy per son act et folly demesne, et il puit resister cest ignoyance, il ne serra pꝛiuelege pur ceo, et Aristotle dit, que tiel home est digne de double punishment , pur ceo que il ad doublement offende, Len esteant pure, en male example de auters, et en fealsance del act. Et ceo act est dit et terme desse fait ignoyanter, s. ou il est cause de son ignoyance demesne : et issint le diuersitie perenter chose fait ex ignorantia, & ignoranter . Et issint come iay dit, lou les parols del alcun ley sont infringe pur auoyder greinder inconuenience, ou per necessitie, ou per compulsion, ou per inuoluntary ignoyance, que en tous ces cases le ley nest offende. Et adonques beyoromus et examineromus nostre case. Et en nostre case le Moade sult eiet, et le incerteintie fait pur auoyder le greinder mischæse . Car le vie de chescun home est plus pꝛetious que alcun biens sont , et le perder del vie del home est plus grand mischæse que le perder del biens . Et issint en auoydance del ceo plus grand mischæse , le eietement , et le incerteintie fueront faits. Auri ceo sult per necessitie, et per le plus grand necessitie que puisset estre fait, s. per necessitie en auoydance del mozt. Et le necessitie icy sult cy grand que en les auters cases auant dits, s. le necessitie en le case de creteine de etwe, et del famine: car est pur saluation de vie en l'un case et l'auter. Et auri l'act poet estre dit d'estre fait per compulsion : Car quant vn chose veigne a tiel point, que sil ne fait tiel act , que adonques il pꝛesentment mozt, et en auoydance del pꝛesent mozt il ceo fait, tiel act poet bien estre dit d'estre fait per compulsion , et per le plus grand compulsion que poet estre . Car il nad plus grand compulsion que

E.g.

compulsion

compulsion del mozt, s. que il mozera, sil ne fist tiel chose, et
 issint icy l'eiectement del woade, et le incerteintie del reme-
 nant vient per compulsion. Et auri il ne poet esse deny mes
 que le ignozance icy del incerteintie fuit inuoluntary, en-
 fant que l'eiectement del woade que fuit cause del ignozance,
 fuit per compulsion, que est inuoluntary. Et entant que le
 ignozance del incerteintie est desse ascribe et impute tant
 solement al necessitie et compulsion, et pur auoyer grein-
 der myschyeze, queux choses per pꝛouydençe ne puissent
 esse pꝛeuent, ne per circumspection eschue, ne per poiar res-
 sist, adonques ieo dye, que nul default est in fagassa &c.

Principal, instrumental. fol. 98. Car ils disoyent, que
 quant plusors beignent a faire vn act, et lun solement ceo
 fait, et les auters sont pꝛesent, abbettant luy, ou pꝛist de
 luy aider en le fait, ils sont pꝛincipalles a tous entents cy
 foizement come cestuy que fait le act. Car le pꝛesence de les
 auters est terroz a cestuy que est assaunt, et occasion que il ne
 olast luy mesme defender. Car si vn viest son enemy, et 20.
 de ses seruantes beignant a luy assaulter, et ils tous trape-
 ront lour espees, et luy enuyzon, et vn solement luy percuist,
 issint que il de ceo mozt, oze les auters serrôt per bone rea-
 son aiudge cy grande offendours que cestuy que luy percuist.

Car si les auters, nussent esse pꝛesent, il peraduenture
 boile auer luy defende, et issint eschape. Mes le number de
 les auters pꝛesent et pꝛeste a luy percuister auri, serra aiudge
 grande terroz a luy, et abatement de sa courage, et occasion
 a faire luy despeirer a se defender, et est occasion de sa mozt.
 Issint que lour pꝛesence est la cause de son terroz, et le terroz
 est cause que il receiue les plagues, et les plagues sont cause
 de sa mozt, et donques entant que ambideux les choses, s. les
 plagues, et le pꝛesence les auters que ne donont pas les
 plages, sont aiudges la cause de sa mozt, il ensuit que tous
 eur, s. les ferriours, et les auters pꝛesent sont en semblable
 degree, et chescun est participant del fait del auter. Et le
 fait, quant a cestuy que est mozt, et quant al punishment de
 ceo, (coment, que il consist de deux parties) vncoze en le ley
 il est sans diuision. et nyent contrisstant que ne soit que vn
 plage, done per vn solement, vncoze il serra aiudge en le ley,

le plage de chescun, s. done per cestuy que le done pur luy
mesme, et done pur les auters per luy come leur miniffer et
instrument. et est cy soztement le fait de les auters, sicome
ils tous ont tensus ioyntment oue leur maynes le baston,
ou le anter instrument, oue que le plage fuit done, et bissent
touts ensemblement percusse l'occise.

Fol. 497. et 498. Touts les Justices agreont en vn, que
le ordinary, le Patron, et le roy, doyent agrer a faire vn
appropriation, et sont actores huius fabula (come le seigni-
our Dyer le terme) cestassanoir, le ordinary inferior, ou
supreme. Car il est le principal agent en ceo, eo que il ad le
spirituel iurisdiction, et lact del appropriation est chose spiri-
tuel. Et ordinary dit, 'Appropriamus', consolidamus, &
vnimus, come principal actor en le cause, come Manwood
Justice dit: eoque le chose que concerne le cure de esglise, est
chose que concerne les alms des parochians, de queux, deins
sa diocesse, le euesque ad charge. Et pur ceo en le appropria-
tion le ley attribute a luy principall part. Et ceo que le or-
dinary del diocesse puit faire, ceo le pape que bendicat a luy
supreme iurisdiction oultre tous ordinaries, blast de faire
deins le realme, come supreme ordinary, et fuit long temps
suffer de ceo faire, et issint il blast de faire visitations, cor-
rections, dispensations, et tolerations, deus chescune dio-
cesse de ceo realme, et tolle de les euesques deins ceo realme
tout come luy pless: et ensuant cest blage il blast de faire ap-
propriationes sans l'euesque, quel fuit prise d'estre bone et
l'euesque, que ne fuit accoumpt forques come inferior ordi-
nary, ne vnques counterdist ceo, mes ceo fuit vse et accept
come bone. et tiel autozitie et iurisdiction que le pape blast
deins ceo realme fuit agnise per le parlyament in Anno. 25.
H. 8. et auters statutes, destre en le dit roy Henry le Huyte:
et de luy descendist al successeurs: donques le appropriation
fait per le roy solement sans l'euesque, est si bone, come si
l'euesque vst le fait, ou sicome il fuit prise en auncient teps
quant le pape le fist. Mes coment que le ordinary inferior,
ou superior est celuy que doit faire le appropriation vncore il
ne poet ceo faire sans le bon volunt del patron. Carle Pa-
tron ad en le aduouson tempozal inheritance ce

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seu simple, le quel le ordinary, ne en auncient temps le pape, ne puit toller de patron, ne alterer sans le bone volunt del patron. Mes en appropriations le patron est vn part, car il doit accepter ceo: et le ordinary est le agent, et il est le patient. Et son assent en submission de luy al volunt le ordinary, et en acceptance del son order, et en execution del ceo que est ordeigne, est declaration de son entent: et tout serra entende destre fait a son request, car le benefite est loen: et issint le ordinary, et le patron sont duo actozes huius fabulæ. Et oultre eur, il y ad vn tierce, que ad parte a faire en cest action, et ceo est le roy, come roy: car il puit este lede per cest mariage. Car le auouson est tenus de luy mediatment, ou immediatment, &c.

Fol. 79. a. Car troyz choses sont ceo vn act (il entende vn act de Parlement) s. l'assent de les seigniozs, de les comons, et de le roy: et l'un, ou deux sans le tierce ne fait ceo vn act. Car comentq; les seigniozs et comons agreé al chose, vncoze n'est act tanq; le roy ad assent auri. Cause en compaignie.

Cause procreant. Fol. 214. Adonques icy en le principal case, le roy Henry le quart fuit firs et heyre a Iohn de Gaunt, que fuit vn des firs le roy Edward le tierce, et fuit auri firs et heyre al Blaunch feme del dit Iohn de Gaunt, que fuit file et heyre Henry Duke de Lancaster. Mntq; le Duchy de Lancaster vient al dit Henry le quart per discét del part sa mere.

Folio 242. b. Car del heure que tout iustice, tranquillite, et repose est deryue del roy come del fountaine de ceo, le ley en tous ses besoignes et choses luy fauour come le chiefe test del ceo.

Cause conseruant. Fol. 315. b. le roy est le test del bien publique, et les subiects les membres: et l'office le roy que le ley a luy appoynt, est, de preseruer les subiects.

The matter is the cause of the which a thing is made.

So in August Willy sheweth what matter his cup was made of, thus:

*Then lo, Perigot, the pledge which I plight,
A mazer ywrought of the maple warre.*

In December Collyn in his complaint,

Where I was woont to seeke the honny Bee

Woorking

Working her formall roomes in waxen frame,
 The grisly toadestoole growne there might I see,
 And loathed paddocks lording on the same. Again,
 And learn'de of lighter timber coats to frame,
 Such as might saue my sheep & me fro shame. Again,
 To make fine cages for the Nightingale,
 And baskets of bulrushie was my woont.
 Maister Plowden. fol. 15. b. Les blnes del panne sont le
 mater del toge.

Annotations.

ARistotle sometimes calleth the efficient, the beginning
 of motion and rest, as in the first of his Metaphysikes, and
 second of his Physikes. And otherwhiles he useth this very
 name, Efficient; as in his Topikes and Demonstrations.

The auncient Philosophers made great discourses con-
 cerning this cause, but some very fabulous, sayth Aristotle 3.
 Metap. As Hesiodus and Parmenides made Loue the maker
 of all things; some obscure and ambiguous, as Hermotimus
 and Anaxagoras sayde that a certaine diuine spirite was the
 authoꝝ of all; so Empedocles giues all to Concord & Discord,
 and diuers others to other diuers things. Wherefoze Aristot-
 le compareth them to yong fresh souldiers and vnerperien-
 red fellowes, that many times hit home, and lay on loades,
 but without eyther art or order.

αἰτία, or *αἰτίον* in Græke is a cause in English. It is som-
 times taken generally for any reason or argument by com-
 mon custome and vse of speech: but here it hath a moze speci-
 all and proper signification, and conteyneth onely these foure
 kinds of causes following. *αἰτίον* and *αἰτία*, be very sig-
 nificant words to expresse the cause and that which is made
 of the cause: The Latinistes haue none so good, vnlesse you
 take that dunsicall deriuation, *Causa*, *Causatum*, which wee
 imitate in English to very good purpose, thus, the cause, and
 the thing caused: Where, as the word, *Cause*, comprehen-
 deth efficient, materiall, formall, and small cause, so, the thing
 caused, answering *αἰτία* in Græke, and *Causatum* in
 Latine, conteyneth the seuerall effectes of euery particuler
 cause.

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cause, as proportionably we may say, the ende and the thing whose end it is: the forme and the thing formed, the maker and the thing made, the matter and the thing materiale. For otherwise, although in Latine, *Effectum* doe stand for all foure, yet properly it onely betokeneth that which is caused by the efficient. For thus we may distinguish the severall vertues of the foure causes, although I knowe they all con-
curre together in causing, so that the constitution of the thing caused is not set from this or that alone, but from all foure jointly.

Fœlix qui potuit rerum cognoscere causas, sayth Virgill. For although by effects and other arguments we may haue a probable gesse and make sensible coniectures at thinges: yet no true science or knowledge is had but from the causes: By the effectes and euentēs we see τὸ ὅτι, that thinges be so: but by the causes we knowe τὸ διότι, why they be so: and that is onely worthy the name of knowledge.

These diuers sortes and distinctions of efficientes are greatly to be considered in dayly affaires, as containing in them the reason of the well or ill doing of any thing: of all punishments, rewards, excuse, compassion, &c.

Omnis procreatio & conseruatio fit natura, consilio, per se, vel per accidens: itaq; illa primo, hæc postremo in loco collocaui.

[Naturally:] So all naturall thinges be made, made, augmented, diminished, altered, and removed from place to place by this operation of nature.

I sayd before that the efficient was rather distinguished then artificially deuised. For in trueth the preserving cause is the efficient rather of the preservation it selfe, than of the thing preserved. And the instrumentall cause, as it is an instrument, is no efficient at all, but rather a helping member or part of the efficient, sith it hath no power in it selfe to cause the thing caused. *Causa sine qua non* is of some referred to helping causes. *Occasio est agendi tempestiuitas siue* *opportunitas casu oblata, quod postremum ex nominis etymologia intelligitur, reliquum ex appellationibus græcis, καὶρὸς, ὥρα, ἰδέα, ἀφορμή, quorum nominum extremum,*
notat

notat tempus vnde agens initium agendi facit, quod græce exprefsius fonat, τον χρονον ἀφ' ὧς ἐμύα? ὁ πορρ' ἐξυλως. videtur occasio esse causa per accidens, sed diuerfa ab illis duabus a Ramo positis.

Aristotle in the second of his Physikes distinguisheth betwene Fortune and Chaunce, as making Fortune properly incident to those efficientes onely which worke with aduise and deliberation, yet then vse it not, and this is called Imprudentia, when we doe a thing vnawares. But Chaunce hee will haue that to bee which is found in things void of such deliberation. So that if a man should call the stones that couer some honourable personage, fortunate, for that they bee somewhat honozed, this were but an vnproper kind of speaking by Aristotles rule.

A man goeth towarde Westminster to talke with his counseller, and misseth of him, here his going was in vaine: but in going hee findeth a ringe: His going to Westminster was the cause of the finding of the ringe, but yet such a cause as we call Fortune, or Haphazard. So Ouid excuseth himselfe for seeing somewhat more than hee should, before he would.

Cur aliquid vidi? cur noxia lumina feci?

Cur imprudenti cognita culpa mihi est?

Inscius Alceon vidit sine veste Dianam,

Prædæ fuit canibus non minus ille suis.

Scilicet in superis etiam fortuna luenda est,
nec veniam læso numine casus habet.

In like maner Tully reporteth in his thirde booke de natura deorum, what god fortune befell Iason Phæreus, who hauing an impostume, as hee thought, incurable, went to fight with purpose to dye, but with a wound his impostume was opened, a thing which neyther himselfe nor his phisicians euer imagined: Here then was fortune on eyther side, in Iason that was wounded, and in him that gaue him the wound: god in the first, bad in the second. For the enemies weapon was by fortune a cause of Iasons vnexpected health, whereas death was desired of the one, and intended by the other, for he that gaue the stroake, thought rather to make a new wound than cure an olde disease. This is fortune with

f.

Aristotle.

The first Booke.

Aristotle . Nowe on the other side, if a three-footed stoll should fall from aloft, and yet in falling stand on his feet, this with him is chaunce, for the stoll fell for no such ende, and it is a thing altogether sencelesse. Epicurus said that the world was made by the casual concourse and mixture of little round indiuisible bodie, like moates in the sunne, whose ridiculous blasphemy Tully mocketh not without deserued cause, 2. de nat. deorum : for so, if a man shoulde by chaunce cast abroade an hundred thousand or moze of characters or Printers stamper, he might as well reade on the ground all saint Austins woꝝkes or Cowpers dictionary by the casual scattering of A. B. C. These be examples of chaunce with Aristotle, not of fortune. But it is folly to stand vpon this nice and friuolous distinction of Chaunce and Fortune, sith in common speech they be taken all as one, and so they be here to be vnderstode.

In this kinde of cause, ignorance and vntwitting simplicitie haue place as I sayd before, whereof come excuses and supplications, when a man pleadeth ignorance, and therefore hopeth to finde pardon, as Tully for Ligarius, Ignosce pater, errauit, lapsus est, non putauit, si vnquam posthac. And againe, Erraui, temerè feci, ad clementiam tuam confugio, delicti veniam peto, vt ignoscas oro. But in deede, this name of Fortune, Chaunce, Hap, or Hazard, was onely inuented by such as knewe not the first cause, Gods prouidence: And therefore when any thing fell out contrary to theyr expectation, whereof they neyther vnderstode the cause, nor could yeeld any reason, they said it came by chaunce, fortune and hazarde. Wherevpon Fortune was made a goddess of good luck: and many christians vse these prophane tearmes, God send mee good lucke, and good fortune. Whose idle prayers be noted by an Ethnike Poet.

Nullum numen abest, si sit prudentia; sed te

Nos facimus, fortuna, deam, cæloq; locamus.

Aristotle calleth Fortune, *περὶ λόγον, ἄοριστον, ἀβεβαιον, ἀθεωπινω λογισμῷ ἀδηνον*, improuidum, incertum, dubium, humano iudicio ambiguum, and yet *ὡς δειον τι ἔχει καὶ δαμνιον* ἔσθον, vt diuinum quiddam & beatum.

Canons

Canons incident to causes generally.

God onely is the first and principall cause of all thinges. All other causes whatsoeuer are secondary, and subiect to his eternall direction.

Nothing is without a cause.

If all the causes concurre, the effect will followe.

To whatsoeuer thing you ascribe the cause, or deny the cause to y^e same you attribute, or deny y^e effect or thing caused.

Such as the cause is, such for the moste part is the thing caused: this holdeth not in destroying causes.

Particuler Canons of the efficient.

When many efficient causes ioine and concurre together in any action (as the principall cause with other helpers and instrumentes) there they all ioynly together be onely the full and perfect efficient cause of that effect.

Cause naturall, voluntary, accidental, violent.

God hath distributed to euery creature some naturall properties, vertues and operations.

If the naturall vertue, and propertie of any thing be affirmed, the naturall effect will follow, vnlesse that naturall facultie be otherwise let or hindered, and if the effect be, the cause must also haue gone befoze.

If will, and aduise, or deliberation be, then the effect may be.

Such as the naturall disposition and will is, suche is the effect iudged to be.

If the cause be in hazard, that is, if the cause be to vs vnertaine and vnknowne, then may the effect fall out vncertainely and by hazard, or when we looke not for it.

Alone and with others.

If the sole cause worke continually, the thing caused is alwayes, if not, then otherwise: if the efficient do necessarily require the helpe of others in working, then without them nothing can be done: if not, then otherwise: if it worke by instrumentes, then are those instrumentes required. If the efficient worke alone, then it deserueth the more, either praise or condemnation, if with others, then the lesse, so Nisus 9. Aeneid, accuseth himselfe, and excuseth

J. y.

Euryalus,

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Euryalus. Me, me, adsum qui feci, in me conuertite ferrum,
ô Rutuli, mea fraus omnis, nihil iste, nec ausus,
Nec potuit.

Procreant, conseruant.

No efficient cause, except God, can make any worke
without matter. Hinc illud,

E nihilo nihil; in nihilum nil posse reuerti. And if
the matter be, the worke may be made.

If the procreant and conseruant cause be, the thing may
be procreated and conserued. If the vndoying and destroy-
yng cause be, then must the thing decay.

If the cause efficient be god, the effect will be god: and
bad, if bad.

If the destroying cause be god, y thing destroyd was bad:
If the thing destroyed be bad, the cause destroying must be
god, y is to say, hath down some good, hath brought some profit.

The efficient may be exprest by variety both of Gram-
maticall cases and Rhetoricall figures: as in procreant cau-
ses, God is the father and fountayne and well of all godnes.
The beginning of euery god thing is in, of, and from God.

From procreant causes the Poets doe oftentimes fetch
their epithites & circumloquitions, as, Sole satus Phaeton, &c.
Phaeton borne of the sunne.

If you put downe, or take away, that is, if you affirme or
deny the cause efficient, procreant and conseruant, in tyme
fit and conuenient to worke, and being not idle, then the ef-
fect must be put downe, or taken away: but diuersly, accor-
ding to the diuersitie of the causes themselves. For,

If such a cause be, as that it worketh of his owne proper
force, plainly and certainly, no other thing helping it, then
must the effect follow certainly.

Now let vs see a little the vse of these Canons, in compa-
rison of the plaine definitions and explications of proprie-
ties put downe by Ramus. Let this serue for an example.

He that is idle, is wanton:

But *Paris* is idle,

Therefore *Paris* is wanton,

In the proposition, which is the first axiome of the three, Idleness, as a procreant cause, doth argue Wantonnesse, as his effect. In the second axiome which maketh the assumption, the same Wantonnesse, is an adiunct of Paris; that is, a qualitie adioyned, or incident to the nature of Paris. Nowe according to the common Logicians, in this sorte must you iudge by disposition.

Paris is idle,

Therefore he is wanton,

For the cause being put downe, the effect will followe. But otherwise; if you beleue Ramus, thus:

The proposition, which was this; He that is idle is wanton, is a doubtfull and contingent axiome, and yet, for the most part, most true, by reason of the affection of such a cause to such an effect. The assumption was this, But Paris is idle, which is also a contingent axiome, and must be confirmed by the maners and behaviours of Paris. The conclusion it selfe doth followe necessarily, by force of the forme and constitution of the syllogisme: but yet, of it selfe, it is but a contingent axiome, although the deduction of it from the premises, be, as I sayd, necessary, by reason of the lawfull framing of the syllogisme. If therefore the proposition be denyed, I aunswere, that it is a contingent axiome, for the most part true, and therefore you cannot iudge it altogether false. And this I confirme by the definition of the efficient cause already put downe, thus; The efficient is a cause from which a thing is, which cause if it be, the thing caused either is, or may be. This nowe is a new and prosyllogisticall argument, set from the very naturall definition of the argument it selfe, that is of the cause efficient: nay rather this is that common maxime used of others, if the efficient be (that is, in due time, and not hindered) the effect will followe. But here, the variety of efficient causes is diligently to be marked, as some be alone, some with others, some accidentally, some of their owne force; as before I have shewed.

So then, by this we perceiue, that the Canon or Maxima, doth nothing concerne the consequence, but onely the confirmation of the

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proposition

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proposition and thing it selfe. Thus much for the proposition.

Now if any man deny the assumption, it must, as I sayde before, be proued by the life and conuersation of Paris him selfe. For in euery syllogisme, the premisses, as they terme them, that is, the proposition and the assumption, must be proued and confirmed, eyther by axiomaticall iudgement in Logike proceeding from the seuerall affection of argumentes to the things which they argue, or els by other arts and daily assayes incident to mans life. And commonly the propositions are proued to be eyther contingent or necessary axioms, by Logicall definitions of argumentes, and certayne rules or canons, which are, as it hath bene tolde, brought in for new and prosyllogisticall arguments for the confirmation of the said proposition, and not as proofes of the consequition. And if you thus apply rules, canons, and maximes, whether proper to this Art, or those common receiued ones, you shall not do amisse.

Lastly, concerning the conclusion of this syllogisme, if any man doe so much want good maners, as to deny it, you may iustly say, there is no reason why it should be denied, vnlesse the constitution of the whole syllogisme be not lawfull and artificiall.

I will here insert a few examples gathered out of our Law booke, for the better vnderstanding of some of these canons, & those distinctions of efficient causes put down before.

Cause principall and instrumentall.

Hitherto may be referred, what is sayde of principall and accessaries. Stamford, lib. 1. cap. 44. Nota que in grand treason, y l y ad nul accessories, eins tous sont principals. Vt patet, An. 3. H. 7. fol. 10. Ilint que quecunque offence fait home accessarie en felony, mesme l'offence in grand treason fait luy principall. Des en petit treason, ou felony, ou auters tiels crimes, accessaries poient estre.

Accessaries sont deuant l'offence perpetrate, in procuring or commaunding auter de faire vn felony, mes n ient effeant present a le fait : ilint, apres l'offence perpetrate sont ceur qui receuont vn felon attaint, bien consulants del fait que il

ad

ad fait, ou luy fauoyont, ou aydont, &c. In attainer sur appa-
rance et default, le principal doit estre attainct deuant l'access-
soy: et l'acquitel del principal est auxi acquitel del accessoy.
Accidentall.

De Homicide per misadventure, vide Fitz. tit. co. 3. E. 3. P.
354. & P. 302. P. 2. H. 4. P. 69. & P. 11. H. 7. f. 24.

Si homicide soit fait nient per home, eins per auter casu-
altie. de ceo surda Deodandum. Deodandum est ou home
auient a la mort per misadventure d'ascun chose que chiet sur
luy, ou per misadventure dun laps que il mesme suffra, in-
chiant de ascun chose sans estre enchesoné per ascun auter ho-
me; ceste chose quelle enchesona la mort, serra forset, et pris
come Deodand. Vide Fitz. tit. coron. P. 403.

Concerning casuall homicide, I remember an odde histo-
rie of a certaine man who falling from the top of a house,
lighted on an other mans necke, and crushing him to death,
preserued himselfe. The sonne of the dead man, procuring
the reuenge of his fathers death, caused him that fell to bee
had befoze the Iudge: Where hee no lesse pretily then rea-
sonably, offered him this faire play: gett thee vp, & hee, to
the top of the same house: I will stand where thy father
did: and if by falling vpon mee thou bruse mee to death, and
saue thy selfe, I promise thee, my sonne shal neuer seke to
reuenge my death.

Necessitie, Fortune, &c.

Stamford: lib. 1. cap. 5. Homicide fait de necessitie ineu-
table pur auancer iustice, est Justifiable. Car le vicount,
Baylie, ou ascun auter, qui ad garrant darrestier home en-
dite de felony peut bien Justifier le tuer de luy, sil ne boile
suffrir luy mesme estre arrest, eins estoit al defens tielment,
que l'officer ne peut faire l'arrest sans luy tuer. et en tiel
case l'officer serra discharge sans attendre le grace le roy.
s. sans, acquerer pardon, vt patet 22 lib. Ass. p. 55, et tit: coro
in Fitz: P. 22. E. 3. P. 2. 61.

Item si plusors beignont a comburer ma meason, moy
esteant la dedeins, et inuironnont la meason. mes ils ne ceo
comburont: et ieo saetta hoys, et occida vn de euz, ceo n'est
felony, vt patet 26. lib. ass. p. 23. Mesme ley est sils beignont a
ma

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ma meason pur moy robber, et mon garçon qui est oue moy
in la meason, tua vn de eur. Fits: tit: coro: 3. E.3. Itiner.
North: P. 330. per Louth.

¶ *Prs content necessitie serra interprete in homicide seip-
sum defendendo. Vide Fitz. tit. coro: P. 266, an 43. lib. ass. P.
31. & 3. E.3. P. 284. P. 286. P. 287. & P. 297.*

Item, 21. H. 7. 39. *¶ Per Tremayle Justice, seruant poit
occider home in sauant le vie son maistre, sil ne poit aufer-
ment eschaper.*

*That this hath béene practised in England continually, it
may appeare by the discourse of Bracton, who wrote in king
Henry the thirds time, in this manner.*

*Est enim inter alia crimina, crimen quod ex parte tangit
ipsum regem cuius pax infringitur, et ex parte priuatam per-
sona n, quæ nequiter & contra pacem regis occiditur. Vnde
primo videndum est de homicidio, quid sit & vnde dicatur,
quæ eius species, & qua pœna homicidæ punientur.*

*Est enim homicidium, hominis occisio ab homine facta. Si
autem à boue, cane, vel alia re: non dicitur propriè homicidiũ.*

*Dicitur propriè homicidium, ab homine, & cædo, quasi
hominis cedium.*

*Species homicidij sunt multæ. Nam aliud spirituale, aliud
corporale: de spiritali verò ad præsens non est dicendum.*

*Sed corporale est quo homo occiditur corporaliter: & hoc
dupliciter committitur; lingua, & facto. Lingua tribus modis:
s. præcepto, consilio, defensione vel tuitione. Facto quatuor
modis; s. iustitia, vt cum iudex vel iusticiarius reum iustè
damnatum occidit. Istud autem homicidium, si sit ex liuore,
vel delectatione effundendi humani sanguinis, licet ille iustè
occidatur, iudex tamen peccat mortaliter, propter intentionẽ
corruptam. Si verò hoc fiat ex amore iustitiæ, nec peccat iu-
dex ipsum condemnando ad mortem, & præcipiendo mini-
stro vt occidat eum; nec minister si iussus à iudice occidat con-
demnatum. Et peccat vterq; si hoc fecerint iuris ordine non
seruato.*

*Necessitate: quo casu distinguendum est vtrum necessitas
illa fuit inuitabilis, an non: Si autem euitabilis, & eam eua-
dere potuisset occisor absq; occisione, tunc erit reus homicidij.*

Si

Si autem inuitabilis, quia occidit hominem sine odij meditatione, in metu & dolore animi, se & sua deliberando, cum aliter euadere non potuisset, non tenetur homicidij.

Casu, sicut per infortunium, cum quis proiecit lapidem ad auem, vel animal, & alius transiens ex insperato percutitur, & moritur. Vel si quis arborem inciderit, & per occasum arboris, aliquis opprimatur, & huiusmodi. Sed hic distinguendum est, utrum quis dederit operam rei licitæ an illicitæ, ut si lapidem proieciebat quis versus locum per quem consueuerunt homines transitum facere: vel dum insequitur quis equum, vel bouem, & aliquis à boue vel equo percussus fuerit, & huiusmodi, hic imputatur ei. Si verò licitæ rei operam dabat, ut si magister causa disciplinæ discipulum verberauit, vel dum quis deponebat foenum de curru, vel arborem incidebat, & huiusmodi, & adhibuit diligentiam quam potuit, scilicet, respiciendo, & proclamando, nec nimis tardè aut dimissè, sed tempore congruo & ita clamosè, ut si aliquis ibi fuisset, vel illuc venisset, potuisset auferre, aut sibi præcauere, non imputabitur ei. Idem iuris est de magistro non excedendo modum verberandi discipulum.

Voluntate, ut si quis ex certa scientia, & in assultu præmeditato, ira vel odio, vel causa lucri, nequiter & in feloniam, contra pacem domini regis, aliquem interfecerit. Et fit aliquando huiusmodi homicidium pluribus astantibus & videntibus, aliquando verò clanculum & nemine vidente, ita ut sciri non possit, quis sit occisor: huiusmodi homicidium dici poterit *murdrum*, secundum quod inferius dicitur.

Pœna verò homicidij duplex est, spiritualis videlicet & corporalis: spiritualis tollitur per pœnitentiam. Et occidit quis alium dupliciter: quandoque lingua, quandoque facto. Lingua, ut si quis dissuadendo, retrahit aliquem à proposito volentem alium liberare à morte. Et sic aliquando indirectè facit quis homicidium. Pœna verò homicidij commissi facto variatur. Nam pro homicidio iustitiæ iusta & recta intentione facto, non est aliqua pœna infligenda.

Si sit aliquis qui mulierem pregnantem percusserit, vel ei venenum dederit, per quod fecerit abortiuum, si puerperium iam formatum vel animatum fuerit, & maxime si anima-

The first Booke.

tum, facit homicidium (*pes contrarium tenetur. Fitz. cor. P. 263, & 146. Car a faire homicide, il est requis, que le chose occise soit in rerum natura.*) Possunt & multi culpabiles esse homicidij sicut & vnus, vt si plures rixati fuerint inter se in aliquo conflictu, & aliquis sit interfectus inter tales, nec appareat à quo, vel à cuius vulnere; omnes dici possunt homicidæ, & illi qui percusserunt, & tenuerunt malo animo percussum dum percussus fuerit. Item & illi qui voluntate occidendi venerunt, licet non percusserint. Item & illi qui non occiderunt, nec voluntatē occidendi habuerunt, sed venerunt ad præstandum auxilium & consilium occisoribus &c. Item & ille qui præcepit percutere & occidere, quia cum non sint immunes à culpa, immunes esse non debent à poena.

I have written the whole discourse, for that there is here contained the practise of most of these precepts concerning efficient causes.

Hereunto may bee added also, our *Ellopes de malo lecti*, del cretaine del eade, &c. as standing all vpon the same grounds of violent and compulsive causes, and therefore in themselves reasonable excuses of absence.

Ces parols, Heyres, tantsolement font l'estate d'enheri-
tance en tous seofinets et graüts. Littleton pag. 1. for the sole
cause. So agayne Littleton, fol. 166. a. Home ne boyt un-
ques que cest paroll, Defendemus. fuit en ascun fine, mes
tantsolement cest paroll, Warrantizabimus. Perque semble
que cest paroll et verbe, Warrantizo, fait la Garrantie,
et est la cause del Garrantie, et null autre verbe en nostre
ley.

For the destroying cause, Vide 47. E. 3. fol. vltimo. Nota, que diuorçe poet estre per cing. boyes, s. Causa professionis, præcontractus, cōsanguinitatis, affinitatis, frigiditatis. Et nota, que apzès diuorçe causa professionis le feme serra endowte, et le heyze inherite : mes en auters cases el ne serra endowte, ne le heyze inherite. Here diuorçe is a dissolution of matrimony, and the constitution of the one is the destruction of the other.

For instrumentall causes, ſee 21. E. 4. 16. per Briggess:
Qui fait per autre, fait per Luy-meſme; Come de ſervant &c.

et Fayrfax, la. 44. b. For voluntary aduise and delibe-
ration, 41. E. 3. 30. per Finche. Si deux sont bouche per leur
sapt demesne, et al sequatur sub suo periculo l'un vient, et
l'auter sapt defaut; et le tenant surmit que cestuy que fist
defaut n'ad rien de sayze en value, il auera l'entiere garran-
tie vers cestuy que appiere, car suit son folly de ioynder en
garrantie oue cestuy que rien ad. Sic il feme sole ad title
d'entre en terres, et prist baron, que suffer discent et ne en-
tra, la feme serra barre del entry apres le mozt son baron:
car serra dit sa folly de prendye tiel baron, que n'entra en
temps. Here the free choise, will, and election taketh away
all occasion of excuse.

Materiall cause.

The materiall causes, as also all other arguments Logi-
call, are not to be tied onely to sensible or bodily matters:
but generally to be applyed to any whatsoeuer. be it subiect
to sence, or conceined by reason. As, a man conceiueth in his
mind or memozy the Art of Logike or any other science, the
matter whereof is their seuerall rules and preceptes, the
forme, the due disposition of the same: and yet nether first
nor last is subiect to sence, but onely vnderstode by reason,
and imprinted in the inward power of mans soule. The old
honest philosophers haue had many odde conceiptes and fan-
tasticall imaginations touching this cause, as appeareth by
Aristotle in the first of his Metaphysickes. For Thales
thought the water was the materiall cause of all thinges, as
the Pisticall fellowes and Pagan diuines thought y Ocean.
Thetis, and Stix to be. Anaximenes sayde it was the ayze,
Heraclitus, the fire, Hesiodus the confusion of the woylde,
Pythagoras numbers, Plato litle and great, all whiche and
others also are but derided of Aristotle, as though they had
thus spoken of the Logicall materiall cause, which should be
generall to all thinges, and not rather of the material ground
of naturall thinges.

Canons.

If the thing be made, then the matter must needs be.
If the matter be, the thing materiale may be: if not, then
it cannot be, in secundary causes.

G.g.

The

The first Booke.

The matter sheweth the excellency or godnesse of the thinges made thereof: for if the matter be good, the thing made is good: if better, better: therefore in deliberation and consultation of dyet, of building, of weapons, of garments and such like, as also in praying or dispraising of any thing made, there is an especiall consideration and regard had of the matter.

The whole definition of a writte containeth both the materiall cause and others also. Un brieve est un formal letter ou epistre del roy, escript en le langue latyne, en perchempne, selee ouelq; son seale, direct al aucun iudge, officer, minister, ou autre subiect, al supre del roy mesme, ou al playnte et supre d'auter subiect, commandant ou autoisant aucun chose conteigne en mesme la letter de estre fait pur la cause briefvement en celle letter expresse, que est d'estre discutte en aucun court le roy per la ley.

The fourth Chapter.

Of the formall and finall cause.

The cause before the thing caused, is as I haue already taught. Now followeth the cause in and with the thing caused, which is eyther the forme, or the end.

The forme is a cause by the which a thing is that which it is, and therefore by the forme thinges be distinguished.

The forme is euer ingrauen, as it were, in and together with the thing formed, as the reasonable soule in man, and with man the selfe same instant.

The forme is eyther internall, or externall: Internall which is not perceiued by sence. Externall, which is subiect to sence. Externall is eyther naturall, which is ingrauen in euery thing naturall: or Artificiall, which Art hath framed and performed.

The naturall and internall formes of thinges be hardly either known and vnderstode, or expresse and made plaine.

The artificiall and externall, is much moze easily both conceiued

conceined in reason, and exprested by worde: and of such there be many.

In August, Willy describeth the forme of his cup which he layd against Perigots spotted lambe.

Then loe, Perigot, the pledge which I plight,
A Mazer ywrought of the maple warre,
Wherein is enchaſed many a faire sight
Of Beares, and Tygers that maken fierce warre.

And ouer them spread a goodly wilde Vyne
Entrayled with a wanton yuy twyne.

There by is a lambe in the Wolues iawes:
But see how fast runneth the shepherdes swayne

To saue the innocent from the beastes pawes,
And here with a sheephooke hath him slayne.

Tell me, such a cup hast thou euer seene?

Well mought it beſeeme any haruest queene.

In February, Cuddy describeth the girdle he gaue Phillis by the forme.

I wan thee with a girdle of gelt,
Emboſt with buegle about the belt.

And in the same Egloge he layeth downe the accidentall
and eternall forme, together with some effectes of his
bullocke.

Seeſt how bragge yond bullocke beares
So ſmirke, ſo ſmooth his pricked eares?
His hornes bene as broade as raynebowe bent,
His dewlap as lythe as laſſe of kent.
See how hee venteth into the winde.

Weeſt of loue is not his minde?

Maſter Plowden: Fol. 15. b. vt ſupra in le materiall
cauſe: Car le ſhaping et ſelance del toge, eſt forme del toge.

The ende is a cauſe for the which, or for whole ſake the
thing is. Palinode in the fiſt Aegloge,

Good is not good, but if it bee ſpend:

God giueth good for none other end.

Thenot in the ſecond Aegloge.

It chaunced after vpon a day

Th uſbandman ſelfe to come that way.

G. ij.

Of

The first Booke.

Of custome for to suruey his ground,
And his trees of state in compasse round.

The ende of goodes, is to be spent : the end of the husband-
mans going abroad, was to view his ground.

Maister Plowden : Fol. 18. a. Et pur ceo le scope et fine
de chescun matter est destre consider principalement en toutes
choies : et si le scope et fine del dit estatute est satisfie, don-
ques tout le matter et l'entent del matter est accompli. Et
icy le substance et fine del dit estatute, et l'entent del sealoys
de ceo suit, que le roy auera le subsidie, et ceo solement suit
le scope et summe del dit estatute, et del intent del sealoys de
ceo. et si lagrément icy est sufficient a doner le subsidie, et
de faire le roy destre en suertie de ceo, adonques il ensuit que
l'estatute et l'entent del sealoys de ceo est performe et satisfie.
Et que ceo issint est, ieo ay proue deuant; car lagrément
garrant et autorize le roy del weyer la woade per son collec-
toz, a quel temps que plerra luy, et quant ceo est fait, le roy
ad title de action, et issint est en suertie.

Fol. 59. a. Et issint chescun venter sur le terre ne s'entre.
Car suit dit que Littleton en son lyeu tyent le ley destre,
que contynuall clayme doyt estre fait sur le terre, s'il olast
vener la. et en tiel case, si vient sur le terre, et fait clayme,
et depart mayntenant, ceo ne serra en son disaduantage
adiudg vn entre; car il auera assise del primer disseisin, et
reconera damages del primer iour del assise. car son entent
suit de faire claime, et nyent de prendre profit, ou de expeller
le tenant tout ousterment, et de custodier le possession; et issint
l'entent del venter sur le terre est destre respect.

Annotations.

The formall and materiall cause be essentiall partes of
the thing caused : the end and the efficient are not so.

The forme is alwaies made by the efficient, the matter
is commonly prepared, not alwayes made by it, as the quill
is the matter whereof a pen is made, here the maker of the
pen, doth but order, polish, and prepare the quill, but be al-
together maketh the forme and fashion of the pen. And al-
though forma be effectum efficientis, yet it is causa formati.

Dicitur

Dicitur forma à formando, differentia verò quia differre facit: vna enim eademq; res est, etsi diuersa nomina: and according to these two names, hath Aristotle in the first of his Topiks assigned it two properties; The one for giuing essence and knowledge of the same essence, the other for causing difference: And in respect of the former, it is sometimes called, τὸ τί ᾧ ἐστίν, quod quid erat esse, as 1. post. Sometimes λόγος ἡ οὐσία, ratio essentia, 1. de ortu animal: sometimes οὐσία τοῦ περιγχεύματος, essentia rei, 1. Philo: sometimes λόγος εἰδικὸς καὶ οὐσιαστικὸς, ratio specifica & essentialis, 4. Phil: sometimes εἰδοποιὸς, συμπληρωτικὸς, συστατικὸς, specifica, completiua, constitutiua, as in Porphyry: and sometimes μορφή καὶ λόγος, forma & ratio: sometimes εἶδος καὶ παραδείγμα, species & exemplar, 5. Phil. In consideration of the latter propriety, it is commonly called διαφορά, differentia, for that especially by the forme things differ one from another; so the forme cause of man is his reasonable soule, for this maketh man, to be man, and to differ from all other things that be not man. So euery naturall thing hath his peculiar forme, as a lyon, a horse, a tree, &c. the heauen, the earth, the sea, &c. So euery artificiaall thing also, as a house, a shippe, &c. So things incorporeall, as vertue, vice, &c. So in a word, whatsoever is, by the forme cause it is that which it is, and is different from all other things that it is not.

Onely the forme among all other causes is ὁμόνοος, simul congenita, extant at the same instant with the thing formed: so that there is a most necessary and reciprocall consequence betwene the forme and the thing formed. But now, as the vnderstanding of the forme cause causeth surest knowledge, so hardly can we vnderstand what the forme cause is; which peradventure made Democritus thinke that truth lay hidden in the bottome, and plunged in the deepe. Indee we generally conceaue and gather, that euery particular thing hath his peculiar forme, but what is the peculiar forme of euery particular thing, that we know not; or if peradventure we gesse at them now and then, yet hardly can we expresse our conceits with laboursome and tedious circumlocutions. So that, for the most part things be not knowne,

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And if they bee in part perceiued, then haue we no names for the things. Here therefore the auncient philosophers were wonderfully troubled, as Aristotle reporteth 2. Meta. Pythagoras would haue his numbers to bee the cause of things, and that every thing was an image or resemblance of numbers: and Plato altered their wordes a little, saying that *Idæa* was the forme, and that things formed were communications and participations of *Idæas*: of whome Aristotle concludeth thus, that they valde simpliciter & imperitè egerunt, & hæc sœmed but nugari, & poeticas metaphoras loqui.

Canons.

If you remove the forme, it is impossible for the thing formed to consist.

Such is euery thing, as the forme permitteth it to bee.

The forme is the fountayne of actions.

The forme of euery thing is the especial part of the thinge, and the alteration of the forme chaungeth the thing formed, and maketh it an other thing: but here we must distinguish betwene the vniuersall chaunging of the forme, and the particular alteration thereof. For if a house bee utterly defaced, though it bee reedified of the selfe same timber and stone, yet it is not the same house, but if it bee but a litle decayed and so repayzed in part, it remaineth the same house still, though in continuance of time, euery stick and stone bee altered by often repayzing of it.

The formall cause is generall, as all other partes of Logicke. For the declaration whereof I will purposely note out some examples of the formall cause in actions and exercises aswell as thinges corporall.

Formalitie in pleading is now partly abrogged by the Statutes of 32. H. 8. ca. 20. 18. Elis. ca. 14. and 27. Elis. but how much it was esteemed heretofore, see 14. H. 8. 27. per Brooke Justice. Car vn forme couent d'estre tenuz et vse, ou auerment tous choses serra en confuse et sans order. Car en tres-passe couent doner colour (et vncore le sentence n'est le meilleur en le veritie del matter) pur ceoq; est formalitie. Et a vne plæ en l'affirmative couent prendre auerment: et si soit

soit en le negative, couvent concluder al negative, et ceo n'est
fozsq; fozmaliſtie : et fozmaliſtie eſt le plus chiefe choſe en
noſtre ley.

And the booke of Entries ſtandeth all vpon ſoꝛmall preci-
dents of declarations, barres, replications, reioynders, ſurre-
ioynders, rebutters, iſſues, verditcs, iudgements, executions,
proceſſe, continuances, eſſoynes &c.

Bryton, whoſe booke was publiſhed in Edward the firſt
both time and name. Fol 42. deſcribeth the order and forme of
battayle, but ſomewhat diſcrepant from the forme deſcribed,
17.E.3. and 19.H.4.

In 11.H.6.7. the ioyning of battayle in a writ of right is
ſolempnly ſet downe, betwæne ſir Piers Colts and the Earle
of Northumberland foꝛ the maner of Capenhow.

Sec 14.E.4.8. the forme of puniſhment called Foꝛt et
dure, pronounced in Newgate by Juſtice Needham. vide 8.
H. 4. 2.

Finall cauſe.

Ramus in his French Logike placeth the end firſt, ſith, ac-
cording to Aristotle in the ſecond of his Phyſikes, the ende is
firſt in conceipt and conſideration, though laſt in execution.
But in the laſt edition of his Latine Logike hee ſetteth it
in the laſt place, reſpecting rather *finem rei*, then *efficientis ſco-
pum & intentionem*, which laſt reſolution of his I followe
at this preſent, yet not ſo reſolutely, but that I can bee con-
tent to heare their aduiſe, who bid vs take heede that we con-
found not the finall cauſe with the thing cauſed : which we
ſhall the better doe, ſay they, if we conſider exactly the order
and due coherence of the ſoure cauſes in the abſolute conſti-
tution of a thing cauſed. Foꝛ firſt, the finall cauſe, the end,
purpose, intent, drift, marke, oꝛ ſcope, as it were of the whole
action, is propounded to the efficient, and ſo vꝛgeth and
moueth him to prepare the matter, and apply the forme
therevnto foꝛ the full accompliſhing of the enterpriſe : which
beeing once perſormed, the efficient cauſe now ceaſeth, as
hauiug obtained that it ſought foꝛ. And this beeing thus
atchieued, is not the finall cauſe, but the thing cauſed. As foꝛ
example, I purpose to ſweate, and therefore I daunce : here

the

the

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The sweating is not the small cause, but the intent and purpose which I had to sweate, is the cause that moued mee to daunce, and so caused mee to sweate, which sweating is the thing caused: and although in vulgar speech, the vse of a thing and the end of the same thing be confounded, yet by art and reason they should be distinguished, the one a cause, the other a thing caused. If any man obiect, that if wee say the end is onely the purpose of the efficient, then this place will be restrained to such things onely, as vse reason, and can purpose, where all Logike must be generall, and applyable as well to Non ens, as to Ens, to that which is not, as that which is: they aunswere, that wee neede not take this word, purpose or deliberation so strictly, as to apply it onely to reasonable creatures, but generally say, that euery thing worketh for some end and purpose, whether it be by natures instinct, or voluntary consultation. Or if this seeme more philosophicall then religious, wee may say, that in all artificiall things, and such naturall things as haue no deliberation, that which wee call the ende, is but the thing caused by them, and the cause small is the purpose of God in naturall things, and the intent of the artificer in things that be artificiall.

Et finis mouet efficientem, & cogitatio de fine: finis vt obiectum, cogitatio de fine, vt adiunctum agenti inhærens, sayth Piscator. Some others make the small cause to be nothing but a part of the efficient, and no distinct cause it selfe, sith it onely moueth the efficient to forward the operation.

The end is chiefe, or subordinate: chiefe, which the efficient desireth for it selfe, as the couetous man Riches, and it is either vniuersall, to the which all things in the world generally be referred, as Gods glory; or speciall, wherunto euery thing in his kinde is referred, as the house is the ende of the builder, for hee seeketh no further. Subordinate is that which is not for it selfe desired, but referred to the chiefe end.

Canons.

If the ende be, then the thing must also be whose ende it is: and if the ende cease to be, then the thing whose ende it was, can no longer be.

Euery

Euery thing is referred to his ende.

The end doth eyther allow or disallow euery mans action; Or thus, that is god, whose end was god, and contrarily: Sic Aristotle 3. Rhet. Laco, cum rationem de Ephoratu in iudicio redderet, rogatus, an ipse alios iure perijsse existimaret, assensus est: Ille verò, nonne hæc tu cum illis decreuisti? & ille assensus est: nonne igitur & tu (inquit) peribis? Minimè verò, inquit: illi enim pecunijs acceptis hæc commiserunt, ego verò nequaquam, sed ex sententia.

The end is moze to bee desired, than those things that bee referred to the end. He that seeketh the ende, seeketh also those things that bee referred to the same end.

All the arguments that common Rhetoricians fetch from Honestum and Vtile, are for the most part deriued from the end or finall cause, sith for the cause of these two, most things are enterprised. In like maner, the gesses and coniectures of Judges are fet from the end, as, hæc was most like to worke the mischief, who might haue any end or profit in practising of the same.

Whose vse is good, that is good, but not contrarily, the thing is bad, because it is abused.

The end doth not alwaies follow the efficient cause, eyther because the efficient could not accomplish the thing alone, or els because hæc would not. Theloall, lib. 7. cap. 2. Le finall intent del chescun que pursuyte bzicfe, est, ou a recouerer seisin ou possession de terre ou tenement, ou d'auer chose dont home peut auer heritage, ou franktenement, ou ferme; ou d'auer remedy et recõpence pur iniury et damage a luy auenue per le act, ou non sealance d'un autre, ou pur le non performance des contracts et obligations ou auters parts et causes que sont come contracts.

Home vient pur auoluer son attorney, cest presence ne sera dit apparance, car son intent, ne suit d'apperer al bzicfe &c. 8. H. 7. 8.

Abuses of causes.

Sophistry, as I haue said elsewhere, is no Logike: & therefore least I should iniury the art by ioyning sophisticall fallaciars with Logicall institutions, I haue rather reserved

v. y.

them

The first Booke.

them to these annotations, then thrust them in among the precepts. Some vse, I confesse, there may bee had of them (although I know, that who so thoroughly perceaueth the truth of this art, needes to seeke no other meanes to auoyde these deceipts, sith Rectū est index sui, & obliqui.) But if wee shall put downe euery thing in Logike, which hath any litle shew of profite therevnto; Grammer will be good Logike, because it helpeth vs to vtter y^e which wee haue Logically conceaued.

The word, Sophista, was at the first, a title of commendation, and onely applyed vnto him that was a Philosopher or teacher of wisdomie. But now it is become odious, as Tyrannus, and such like. Sophistry therefore is the abuse of Logike, deceiuing the simple with a glorious shew of counterfeited reasons, commonly called Fallacians.

Fallacians bee eyther in the word, or in the reason. Fallacians in the word bee of two sorts, some in a simple word, some in the coniunction of wordes. In a simple word bee three. The first is when vnusuall and vpstart wordes bee foisted in, as he putteth his felicitie in circumpugnabile gods, circumpugnabilibus bonis, meaning Riches, because men fight about them. Le seigneur des Accords in his Bigarrures, pag. 198. hath many of this making, although somewhat more tollerable, because of the ridiculous application. Ils font (saith he, speaking of some French Carminificators) de petitelettes descriptionettes qui sōt fort agreabletets aux oreillettes delicatelettes, principallettement des mignardelettes damoisellettes, Come

Ma nymphe follastrelette,

Ma follastre nymphelette,

And after

Je vous vens une goutette,

Vne goutte clairelette :

Vne claire goutelette,

Qui vient d'une fontenette,

Miguarde fontenelette,

Fontaine mignardelette. &c.

And page 65. of another sputatilicall goose, he saith thus.
Un certayne predicant qui beuloit. Vindariser en chaire,
et choisir des mots courtilans, pour applaudir a quelques
damoiselles

damoifelles fraifchemēt reuenuës de la cour, auoit couſtume de inuenter des mots, et entre autres, il appelloit la deſtinée, *Fatū in latyn, fat in françois*, ſur quoy vn gentil perſonage rencontra ce diſtique

Frere Iehan Challepoi, tu te romps trop la teſte
De nous preſcher le fat eſcrit par *Ciceron* :
Ne t'eſchauffe pas tant, va, tu n'es qu'une beſte,
Pour bien monſtrer le fat, oſte ton Chapperon.

The like abſurditie would it bee for a man of our age, to affectate ſuch wordes as were quite worne out at heeles and elboyes long befoze the natiuitie of *Geffrey Chawcer*.

The ſecond is, when doubtfull and ambiguous wordes bee uſed, as in thoſe verſes of *Martiall*, where, tuus, is cyther thine by gargarne, or by inuention.

Carmina Paulus emit; recitat ſua carmina Paulus:
nam quod emis poſſis dicere iure tuum. And that,
All the maydes in *Camberwell*

may daunce in an egge ſhell. Of a little village by *London*, where *Camberwell* may be taken for the Well in the towne, or for towne it ſelfe. So that, *Ware* and *Wadeſmill* bee worth al *London*, where *Ware* is either for towne *Ware*, or els merchandize. So laſtly, the Mayze of *Earith*, is the beſt Mayze next to the Mayze of *London*. Where the towne, *God knowes*, is a poore thing, and the mayze thereof a ſeely fellow, in reſpect of the Mayzes of diuers other cities, yet it is the very next to *London*, becauſe there is none betwene.

Accords pag. 96. vne ieune damoiſelle interrogée en quelle eſpece d'oyſeau elle deſireroit veoir ſon amy, ſi nous eſtions aux temps des *Metamorphoſes*, elle dit, qu'elle le bouderoit veoir en *Phaiſant*: vrayement vous auez raiſon, dit dame *Jaquette caquillon*, il ne ſcauroit eſtre plus agreable qu'en le faiſant. Heare not the word wyſſten, but the voyce and ſound cauſed the ambiguitye.

The third and laſt is, when ſcore of *Metaphorical* wordes is the cauſe of a ridiculous obſcuritie, as if a man meaning to bee brief, ſhould promiſe that hee would gallop ouer al the reſt of his text. Wherefoze *Ariſt.* reprehended *Plato* for that his ſpeeche was obſcure and ambiguous by reaſon of *Metaphors*.

The first Booke.

When any of these three fallacious be used, we may say with him in Tully, Sputa quid sit, scio: Tilica, nescio. *Where* may desire him to speake better English.

In the coupling or coniunction of wordes be two: the first is Amphiboly, when the sentence may be turned both the wayes, so that a man shall be uncertayne what waye to take, for this is the signification of the greke worde Amphiboly, and this fallacious commeth not from the diuers signification of any one word, but from the ambiguous construction of many wordes, as that olde sophister the Deuill deluded Pyrrhus by giuing him such an intricate answer,

Aio te, *Acacida*, Romanos vincere posse,

I now foretell the thing to thee

which after shall be knowne;

That thou, king *Pyrrhus*, once shalt see,
the Romaines ouerthrowne.

Where this word, ouerthrowne, may eyther be the nominatiue case and appliable to king *Pyrrhus*; or the accusatiue, and attributed to the Romaines. The like is that giuen to *Crassus*.

Crassus Halyn penetrans magnam peruertet opum vim. *Where* hee hoping to haue destroyed *Cyrus* and the Persian power, ouerturned his own estate, as *Herodotus* reporteth. Such an one was that also giuen to the countesse of *Flaunders* concerning the battell betwene her sonne *Ferrande* and king *Philip*, Que le roy seroit abatu, foulle aux pieds des cheuaux sans sepulture, et *Ferrand* receu a *Paris* en grand pompe et triomphe apres la victorie. *Where* the king, although troden downe, yet dyed not, but overcame, and triumphed at *Paris* ouer *Ferrande*, who was then taken prisoner contrary to the expectation of the Countesse. *Cardan* de *Martin* Abbot of *Affello*, had this verse ouer his gate.

Porta patens esto nulli. *Claudaris* honesto.

Where, by the error of the *Paynter*, the poynt being made after, nulli, caused the *Pope* which roade that way, to displace *Mar ym*, and preferre another to his roime, who reteyned the verse, but altered the poynt, & put it immediately after esto, thus. Porta patens esto. Nulli claudaris honesto.

Where,

Whereupon these verses went together.

Porta patens esto. Nulli claudaris honesto.

Ob solum punctum caruit *Martinus Asello*.

The verse of it selfe is very ambiguous, if the poynt bee altogether omitted, Porta patens esto nulli claudaris honesto.

The seconde is in the vnorderly expounding of the words, as

No sicknes can bee health :

Dido is sicke,

Therefore she cannot be whole.

For if you turne the words into good order of exposition, the falsenes of the proposition will easily appeare, thus, No sicke body can be whole.

Thus much of such fallacians as bee in the words eyther seuered or conioined: which indeed are rather Grammaticall and Rhetoricall than belonging to Logike : Those that are in the reason be more Logicall : whereof some belong to Invention, some to Disposition.

Fallacians of Invention are eyther common to all the places, or peculiar to some certaine places.

Common to all bee two. The first is called, *Petitio principij*, the requesting of the thing in controuersie : when, to proue any thing, wee seeke to haue, eyther the same in effect graunted vs, or some other thing as doubtfull. *Petitio principij* then, is eyther when the same thing is proued by it selfe, as, The soule is immortall, because it neuer dyeth : Or when a doubtfull thing is confirmed by that which is as doubtfull, as

The earth mooueth,

Because the heauen standeth still.

The second is, *Superfluitie* : eyther when wee cast in things impertinent : or els in vnnecessary repetitions of the same things.

For the first, that may serue for an example, which *Tully* hath in his second booke of *Diuination* : as if a physician should commaund his patient to take such a beast, as is bred of the ground, walketh on grasse, carrieth her cottage, and wanteth blood, whereas hee might with lesse labour,

P.iii.

and

The first Booke.

and to better purpose haue willed him take a **Snail**, which
hæ calleth

Terrigenam, herbigradam, domiportam, sanguine cassam.

To this example you may adde that of Martiall, as moze
conuenient. lib. 6.

Non de vi, neq; cræde, nec veneno,
Sed lis est mihi de tribus capellis :
Vicini que or has abesse furto,
Hoc iudex sibi postulat probari.
Tu Cannas, Mithridaticumq; bellum,
Et periuria Punici furoris,
Et Syllas, Mariosq; Mutiosq;
Magna voce sonas, manuq; tota.
Iam dic Posthume, de tribus capellis.

Much like as if a preacher in expounding a text of chari-
tie, should talk out his houre-glasse, in discoursing of Bell the
Dragon of Babylon. To such fellows we may say, turne
to your text, or Iam dic Posthume de tribus capellis.

For the second, which is vnnecessary repetition of the
same thing, this shall suffice, that when I haue generally
put downe the nature of an argument, it were sophisticall to
repeate the same in euery particular, as, when I haue once
sayd generally, that an argument is that which is affected to
argue, what neede I in the particuler discourse of a cause to
say, a cause is that which is affected to argue.

Now let vs come to the particuler fallacious of seuerall
places. And first for the causes. It is sophisticall to argue
from that which is no cause: as if it were a cause. So Sinon
the false captife sayneth a cause why the wooden hoxe was
builded.

Hanc pro Palladio moniti, pro numine læso,
Effigiem statuere, nefas quæ triste piaret.

It is, and alwayes hath bene a common practise among
lewd men, to pretend countersaite causes to cloake their
malitious intent, and disgrace other mens good meaninges.
The true cause therefore must bæ carefully distinguished
rom the shadow ouercast: Arist. 2: Rh. à non causa quasi
ausa, quippe prop terea q simul, aut post eam euenerit: quod
enim

enim post illam est, æquè ac propter illam accipiunt, maxi-
meq; qui in republica versantur, vt *Demades*, *Demosthenis* poli-
tiam causam calamitatum omnium extitisse, quia post eam
bellum est excitatum.

Also in efficient causes, the diuers kindes of working
must be diligently considered, as, what causes can worke
alone, what require the helpe of others, what worke necessa-
rily, what voluntarily, and so forth.

The fift Chapter.

Of the thing caused.

The thing caused is that which is made by the force
of all the causes, which vsually, although not so
properly, is called the effect.

Howsoeuer any thing be altered, moued or
changed, the motion, and the thing moued, or chaunged, be-
long to this place, and are called effects, or thinges caused:
as also, sayings and writings, thoughtes and all cogitati-
ons, although neither vttered nor accomplished.

Patte of praysing and dispraysing commonly is set from
this place.

So in February, Thenot telleth how
the Bzar made a pitifull complaint to the husbandman, dis-
praising the Dake, and exclaiming against it, by reason of his
iniurious dealing: which hee at large putteth downe to in-
cense the husbandman against the Dake.

How fals it then that this faded oke,

Whose body is feare, whose braunches broke,

Whose naked armes stretch vnto the fire,

Vnto such tyranny doth aspire?

Hindring with his shade my Iouely light,

And robbing me of the sweet suns sight?

So beate his olde boughs my tender side,

That oft the bloud springeth from wounds wide.

Vntimely my flowers forced to fall,

That bene the honour of your coronall.

And oft he lets the cankred wormes light

3.

Vpon

The first Booke.

Vpon my branch to worke me more spight.
And oft his hoary lockes downe doth cast,
Wherewith my fresh flowers bene defalte.
For this, and many more such outrage,
Crauing your goodhyhead to asswage
The rancorous rigour of his might,
Nought aske I but onely to holde my right.

In May Piers proueth the shepheards to bee euill, by their effects, thus :

Those faytors little regarden their charge,
While they, letting their sheepe run at large,
Passen their tyme that should be sparely spent,
In lustyheade and wanton meryment.
Thylke same bene shepheards for the deuils sted,
That playen whiles their flocks be vnfed.

In the same Aegloge Palinode setteth forth the effectes of youth agréable to the pleasantnes of the time.

Youths folke now flocken in euery where
To gather May buskets and smellingbreere,
And home they hasten, the posts to dight,
And all the kirke pillers ere day light,
With hawthorne buds and sweet Eglantine,
And gyrlonds of roses, and Sops in wine.

In July, Thomalin prayseth Christ the great shepheard, by his effectes.

O blessed sheepe, ô shepheard great,
that bought his flocke so deare,
And them did saue with bloudy sweat
from Wolues that would them teare.

In the eight Aegloge Piers rehearseth the effectes of loue, in these wordes.

Ah fone, for loue does teach him climbe so hye,
And lifts him vp out of the lothsome myre.
Such immortall myrrour as he doth admire,
Would raise ones mynde aboue the starry skye.
And cause a captiue courage to aspire,
For lofty Loue doth loath a lowly eye.

Colyn

Colyn in December repeateth the pastimes and effectes of
his youth in these verses.

Whylom in youth, when flowrd my ioyfull spring,
Lyke swallow swift I wandred here and there.
For heate of headlesse lust me so did sting,
That I of doubted danger had no feare.
I went the wastfull woods, and Forrest wyde,
Withouten dread of wolues to bene espyde.

I woont to raunge among the mazy thicket,
And gathered nuts to make me Christmas game,
And ioyed oft to chafe the trembling pricket.
Or hunt the hartles hare till she were tame.
What wreaked I of wintry ages waste?
Thoe deemed I my spring would euer laste.

How often haue I skaled the craggy oke,
All to dislodge the rauens of her nest?
How haue I wearyed with many a stroke
The stately wallnut tree? the while the rest
Vnder the tree fell all for nuts at strife,
For ylike to me was libertie and life.

And so after, in the same pitifull lamentation, the effectes of
his sommer and winter bee set downe.

But in March, Thomalins long tale of Cupide, hath al-
most nothing els, but a rehearsall of his owne dwinges and
Cupids. The narration is this.

It was vpon a holyday
When sheepeheards groomes han leaue to play,
I cast to go a shooting:
Long wandring vp and downe the land
With bow and bolts in eyther hand
for byrdes in bushes tooting.
At length within an yuy tod,
There shrowded was the little god.
I heard a busie bustling.
I bent my bolt against the bush
Listning if any thing would rush,
But then heard no more rustling.

I.ij.

Thoe

The first Booke.

Thoe peeping close into the thicke,
Might see the moouing of some quicke,
Whose shape appeared not.
But were it fayry, feend, or snake,
My courage earnd it to awake,
And manfully thereat shot.
With that sproong forth a naked swayne,
With spotted wings, like peacocks trayne,
And laughing lope to a tree :
His golden quiuer at his backe,
And siluer bow which was but slacke,
Which lightly he bent at mee :
That seeing I, leueld agayne,
And shot at him with might and mayne
As thicke as it had hayled :
So long I shot that all was spent,
The pumy stones at last I hent
And threw, but nought auailed.
He was so wymbly and so wight,
From bough to bough he stepped light,
And oft the pumyes latched.
Therewith affrayd I ran away,
But he that earst seemd but to play,
A shaft in earnest snatched :
And hit mee running in the heele ;
For then I little smart did feele,
But soone it sore increased ;
And now it rankleth more and more,
And inwardly it festreth sore,
Ne wot I how to cease it.

Paiffer Plowden : Fol. 163. a. Et certes, les Cloysterers communement en feasant leur leases et faits, auoyent un foyme, lequel ils cy pprecisement boile tener, et pursuer, que ils boillent, marrer tout, pluistost que alterer leur custome : et issint purceog; ils ne boillent encliner leur foyme al ley, mes boillent auer le ley a incliner a leur vslage, ils destruyent le foyme de plusieurs saps,

Annotations.

This argument of the thing caused conſeyneſſe not onely deedes and woꝝkes, but alſo thoughtes, and woꝝdes, counſayles and deliberations, and all motions whatſoeuer. Parmenio the father, and Philotas the ſonne, were both put to death foꝝ ſuſpicion of treaſon againſt Alexander: Where, their cogitation and compaſſing of their Souereignes death, were ſuch effectes as were plagued by death. Foꝝ like occaſion alſo were Lentulus, Cethegus and other complices of Catyline bzought to confuſion.

Yet when ſayinges, wꝛitinges, counſayles, and deliberations be bzought in as teſtimonies, then are they argumentes boꝝrowed, *affumpta aliunde*.

Canons.

We commend men by their cauſes and adiuncts, as foꝝ their noble auncetoꝝs, great poſſeſſions, &c. but eſpecially by reaſon of their effectes, as foꝝ that they did this oꝝ this &c.

Nam genus, & proauos & quæ non fecimus ipſi,

Vix ea noſtra voco.

And as foꝝ Riches, *perinde ſunt*, as hee that bleſſeth them: good, if hee apply them well: bad, if otherwiſe.

If the thing cauſed be, then the cauſe eyther is oꝝ was, but not alwayes contrarily.

Such as the thing cauſed is, ſuch commonly is the cauſe.

That which is attributed, oꝝ not attributed to the thing cauſed, muſt be applyed oꝝ not applyed to the cauſe.

Fit. Cor. 22. E. 3. p. 26. Thorpe recita coment vn gaoler vient al gaole oue vn lanterne en ſa maine a beier ſes priſonniers, queur auoyent debꝛuſe lour fers, et eſſoyēt tonts preſſs d'auer occiſe luy, et batoyent et nauſroyent luy malement: mes il auoyt vn hatchet en ſa maine, oue quelle il occiſt trois de euy, et puis eſchapa, et fuit aiudge per tout le counſeil, que il auoyt bien ſayt.

Stanford: lib. 1. ca. 9. Poſa, que en auncient temps la volunt ſuit cy materiall, que il ſuit repute pur le fait. Fit. Cor. 15. E. 3. P. 383. ou vn compaſſant le moꝝt d'auteꝝ, luy nauſra cy greūouſement, que il luy leſſa giſer pur moꝝt, et plus ſ'en

A. iij.

fua,

The first Booke.

lua, et l'auter reuina, et non obstant, suit aiudge felony, eon-
quant sa volunt apiert cy ouertment de luy auer tue, volun-
tas reputabitur pro facto et oue ceo accorda Bracton qui dit,
In maleficijs spectatur voluntas & non exitus, & nihil interest
vtrum quis occidat, an causam mortis præbeat. Mes le ley
n'est issint a cest iour. Car il doynt mozir en fayt, auant que il
ferra aiudge felony. Et si home ferist auter oue intent de luy
bater, mes nemy a luy tuer, vncoze sil mozust de tiel bater,
il est felony en luy que ferist : perq; a cest iour, home peut
conuerter le dit tert de Bracton, et dire, q̄ Exitus in malefi-
cijs spectatur, & non voluntas dundaxat.

Elenchs.

Martiall vseth this argument sophistically in his first booke.

Extemporalis factus est meus Rhetor,
Calphurnium non scripsit, & salutauit.

As though this were an affect of an extempozall Rhetor, to
salute a man by name without pmeditation. But here hys
meaning was to bee merry, in taunting the man for his ill
memozy, who could skarce remember his familiar friendes
name, vnlesse hee had wrytten it befoze, and learned it with-
out booke.

The sixt Chapter.

Of the whole, part, generall, speciall.

Hitherto of the first diuision of argumentes fully
agréable, in the cause and the thinge caused.
Now followeth the second. Secondly therefore
the argument fully agréable is eyther the whole
and his part, or els the generall and his speciall.

The whole is that which conteyneth partes : the part is
that which is conteyned of y^e whole. The whole is integrall,
or vniuersall: The whole integral is that which hath his es-
sence or being of the partes, as Logike hath two partes, ex-
position of argumentes, and disposition of the same, and of
these two partes the whole essence and nature of Logike con-
sisteth. So a messuage is made of two partes, del terre et
structure.

structure. And here the part is called a member, and is that which giueth essence to the whole, as Proposition and Disposition in respect of Logike, terre and structure in respect of a message.

The whole vniuersall, called the general, is such a whole as giueth the essence or being to his specials; as, an Inherent argument, is the generall, coneyning originall arguments, and those y are secondary as his specials. For here an inherent argument is a whole essence, which doth equally perteyne to originall arguments, and such as are secondary.

The speciall is a part of the generall, as arguments first and secondary are specials of an Inherent argument, as being parts put vnder it indifferently and equally or alike.

The general is eyther most generall or subalternall, the speciall is either most speciall or subalternall, that is, put vnder.

The chiefe or mosse generall is that which hath no generall aboue, As in Logicall Inuention, an argument, is the most generall, comprizing both Inherent and borrowed argumentes vnder it.

The generall and speciall subalternall, or vnder another, are those which may be in diuers respects both generals and specials: generals, in respect of their inferiours; specials, in respect of their superiours, as, a cause, is a speciall in respect of an argument fully agréable: but it is a generall in respect of the materiall or so:mall cause.

The most speciall is that, which cannot be deuided into specials, as this or that singuler materiall or so:mall cause conteining none other vnder it.

Generals are certayne resemblances of causes in themselves comprehended; as specials are of effects. Speciall examples referred to their generals, belong to this place.

Annotations.

Hottoman. Totum & partes vtrum prius an posterius sunt, anne simul? primum distinctio adhibenda est, vt aliud sit totum naturale. veluti arbor, fundus, auis, equus: aliud artificiosum, veluti domus, nauis, currus. si naturale totum est, ver-

The first Booke.

riſſimum eſt quod *Ariſtoteles* libro de natura octauo ſcribit, prius eſſe, & naturæ, & temporis, & rationis ordine, id quod perfectum eſt, eo quod eſt inchoatum. ſin autem artiſicioſum eſt, tum eiſdem *Ariſtotelis* monitu, altera diſtinctio adhibenda eſt, vtrum ſubtiliter & artis ratione, an populariter ex ſermonis conſuetudine diſſeratur. Nam quia ſubtili ratione ea demum pars verè propriè; dicitur, quæ ſuo munere fungitur, fungi autem ſuo munere, niſi ſuo toti inhærens, non poteſt, certè totum & pars naturæ ac temporis ordine ſimul ſint neceſſe eſt. Nam vbi eſt domus, ibi neceſſe eſt eſſe tectum, & vbi tectum reuera tegens, ibi neceſſe eſt eſſe domum: vbi curruſ, ibi rota; & vbi rota reuera, & actu voluens eſt, ibi curruſ: ſin autem populariter loquamur, & homonymia, id eſt, communionem nominis abutamur, tùm verò pars dicitur eſſe prior, totum verò poſterius, vt area, quam iuriſ conſulti poſſiſſimam domus partem appellant, prior eſt ædificio: & funduſ prior vitibus, aut arboribus, aut fructibus,

Canons of the part.

If you put downe or affirme all the eſſentiall partes, you muſt alſo put downe the integrall it ſelfe. But if you put downe one, or ſome of the parts onely, you cannot therefore put downe the whole; for the partes, not ſeuered, but all ioyn'tly, make by the nature of the whole.

If you deny or take any one eſſentiall parte away, the whole is alſo gone.

Of the Integrall.

Prohibitus à toto, prohibitus eſt à qualibet parte.

He that hath the whole, hath alſo the principall or eſſentiall partes.

Although y^e put downe all the parts, yet vnleſſe they be conioyned, the whole will not neceſſarily follow.

If you deny the whole, all the partes are not therefore ſtraightway denyed, vnleſſe you meane, that the whole being gone, the remnant is not properly to be called a parte, Vt non eſt tectum, niſi tegat, &c.

7. H. 7. 8. a. b. 20 acres fueront agré d'eſtre tous temps parcel del manoz, Ergo ſil deny ſeiſie del manoz, il deuy ſeiſie des, 20. acres.

That

That which agreeth with the whole Integrall, must also agree with the parts conioyned, but not seuered.

If the whole be not attributed to any thing, it will not follow, that therfore no part should be applied vnto it.

The whole Integrall cannot be affirmed of any one of his parts: for a part is not the whole: but all the parts together make the essence of the whole. But the generall may be affirmed on one speciall, for that the whole nature and essence of the generall is in euery one of the specials, so that the speciall is the same thing in dede with the generall. (although not in such ample maner) or rather a patterne and resemblance of the generall. Yet, as the speciall conteyneth in it somewhat more than the generall (I meane, his proper formall cause moreouer and besides that he had of his generall) so the generall comprehendeth vnder it more than one speciall; as being therfore common and indifferently applyable to many, because it is abstract from all, and not determinately bound to any. Whereupon they say in scholes, Genus abstrahit ab vtroq; , vt possit esse vtrumq; , and conteyneth vnder it, not in it, repugnant specials, according to Porphyry. Yet, notwithstanding all this, you may as firme the Integrall on his parte in a simple axiome, so that this worde, Part, be added therevnto, as, Inuention is a part of Logike, the body is a part of man.

21. H. 7. 21. per Fineux, & Tremayle Iustices, le person auera trespass de arbres coupes et empoyses en le cimitozie, et d'entry et infreindye del eglise, car l'eglise, le cimitozie, et les dismes sont le Rectozie.

In assise, le pl. dit, que le terre est tenus d'un tiel, come de son manoz de D. que est auncient demesne: le def. in maner confesse ceo, et tamen il pziit general auerment, que parcell del mesine le manoz, le quel il ad conus d'estre auncient demesne, serra franche fee, sans monstre coment per matter speciall; que n'est reason, car chescun chose serra intende del mesime le nature, come le chose est, dont il est parcell. Sic hic le manoz de D. est conus d'estre auncient demesne, & sic per consequens serra intende, que tout ceo que est tenus del dit manoz, serra del mesime le nature prima facie, 3. H. 6. 47. a.

h.

Generall

The first Booke.

Generall. Speciall.

Littleton. pag. 80. Si soit rent, il serra rent seruice, charge ou seck, mes n'est, &c. Ergo. Et pag. 90. Chescun que ad franchtenement, ad bel fœ, bel tayle, bel pur vie, bel auter vie : mes n'est issint icy. Ergo.

21.E.4.79. Si estoine gist pur corpozation, tūm vel hoc vel illud, &c. sed nec l'essoine de mal vener gist pur ceo, nec de malo lecti: car ceur excuse defaut, et ils ne poient appearer in person; et ils tous ne serront sicke ensmble: nec de seruitio, nec de vltra mare, nec de terra sancta, car ils ne serrōt intendes d'estre tous in tiel case, Ergo nul essoin gist pur corpozation.

The generall is nothing els, but a multitude or vniuersality of thinges like in essence, or one like essence in many thinges.

Hottoman. γένος ἐστὶ (vt Zenō apud Laertium definit) ἀλειονων ἐνωμιματων συλλεκτικόν. Itaq; plures cognati qui sanguinis eiusdem communione inter se coherant, quam ab vno eodēq; capite duxerunt, idcirco à Græcis appellantur ὁμογενεὺς vel σύσπενδς, cum alij, qui gentis ac stirpis alterius sint, ἐτερογενεὺς vel ἀλλόστοι, alieni & extranei nominentur. So that this word, Genus; is Metaphozicall.

The higher you ascend, the moze generall thinges bē: the moze generall thinges bē, the fewer particuler proprieties are they tyed vnto: and therefore the moste generall doth agré to most particulers. But, the lower you descend, the moze is alwayes in particularitie comprehended in the words, so that they can not bē applied to so many.

The generall precepts put downe in all Artes, were first inuented by the induction of many particulers and specials.

The generall bēing affirmed vniuersally, euery one of his specials must also necessarily bē affirmed. But if the generall bē but indefinitely, simply, or vndeterminately put downe; some one of his specials must indēde bē put downe also, and that necessarily, but no certayne one aboue the rest, but onely contingently, as If there bē any driggle draggle in Shrewsbury she must bē eyther Jenny Wymmocke, or some other: this is necessarily true: but it is but contingent

to say, that if there bee any, it must needs bee *thée*: for there may be many others also.

Generi per speciem derogatur. Nam qui de vna aliqua specie loquitur, is cæteras sub eodem genere contentas species non dissimulanter excludit, sic legatum speciale detrahit generali.

Denie the generall, howsoever you list, and all his specialls bee denyed.

Whatsoever is attributed to the vniuersall nature of the generall, must bee giuen to the speciale. But there may bee many thinges applyed to the indefinite nature of the generall, which cannot bee ascribed to any of his particularers, vnlesse the thing bee common both to the generall and speciall.

Of the speciall.

The speciall dooth onely conclude affirmatiuely, vnlesse all the specialls bee denied together.

If you put downe one, moze, or all the specialls, you also put downe the generall, for that the nature and essence of the generall is in euery of the specialls. If you deny one onely speciall, you deny the whole generall in his most ample and largest vniuersalitie: but not as hee is indefinite. But if you deny euery speciall, then the generall is taken away, howsoever you meane it.

Whatsoever agreeth with the specialls, agreeth also with the generall: if so bee that the thing applyed bee common, and not peculiarly proper to one speciall alone, as apud Tribalos patrem immolare est laudabile, ergo ἀπλως. *Hottoman.*

Quod vni speciei non conuenit, non continuo generi indefinito non conuenit, vt si homo est animal, quod non est animal id non est homo: sed non, siquid non sit homo, id continuo sequitur, non esse animal. Nam etsi contrariorum contraria sunt consequentia, tamen differentiarum causa hic est in negatione posita, quæ cum priuatio sit; affirmatione, quæ habitus est, semper est deterior neq; paræ cum illa vim habet.

Species eiusdem generis sunt simul natura: est tamen aliqua differentia ordinis, vt in arte speciem hanc illi preponas.

The Grecians call the most speciall, ἄτομον, Individuum, quod diuidi in partes corporatas sine interitu non potest. Nam

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si totum in partes distrahatur, nulla pars erit totum, neq; totius nomine appellari poterit. *There was neuer any Logician before Ramus that durst absolutely pronounce an Indiuiduū, as Socrates to be a speciall, or a man to be a generall: yet I could neuer see eyther good reason, or reasonable experience to the contrary.* Neq; enim audiendum est quod dici videtur à *Porphyrio*, & nonnullis præterea in *Aristotelea* bibliotheca locis, indiuidua non differre forma essentiali, sed proprietate accidentiū, vt mas, & femina: quæ accidentia in *Hermaphrodito* miscuntur. Nam tum detractis (quod omnino saltem cogitatione fieri potest) accidentibus, omnes homines essent vnus & singularis homo: imò neq; deus, neq; dæmon, neq; homo, neq; vlla prorsus essentia esset (quod est ab *Aristotele* nominatim improbatum, cum idealem hominem eiusmodi derideat) sed accidentia sola. *Taurus.*

Hottoman. Plato ea demum esse verè ac propriè dicebat, quæ à sensibus remota, tantum ratione & animo perciperentur, propterea quod semper vniusmodi essent, neq; ortū neq; interitum haberent: cum indiuidua infinita, fluxa, & caduca essent, orirenturq; & occiderent, nec diutius vno & eodem statu essent. *Aristoteles* verò nullas putabat esse extrinsecus substantias, sed intellectam plurimorum inter se differentium similitudinem, vel genus, vel speciem appellabat. Primus *Aristoteles*, ait *Cicero*, species labefactauit, quas mirificè *Plato* fuerat amplexatus, vt in ijs diuinum quiddam esse diceret. Ac de vtrisq; istiusmodi substantijs idem *Cicero* in lib. de vniuersitate ex *Platonis Timæo* ita scribit.

Quid est quod semper sit (hec idæa est) neq; vllum habet ortum. Et quod gignatur (hoc indiuiduum est) nec vnquam sit. Quorum alterum intelligentia & ratione comprehenditur, quod vnum semper atq; idem est: alterum quod affert opinionem per sensus, rationis expers, quod totum opinabile est, id gignitur & interit, nec vnquam esse verè potest?

Vtrius igitur illorum probabilior sententia videtur? Non est humilitatis nostræ tantam inter summos omnium philosophos controuersiam disceptare. Magis tamen aliquantò ad notionum nostrarū rationem accommodata *Platonis* sententia videtur: quippè cum satis constet, non omnes notiones ex oblata

lata extrinsecus indiuiduorum corporum impulsione existere, sed quasdam per se constare; neq; vel aliundè originem habere, vel alio quàm suo ac proprio fundamento niti. Quo in genere sunt intellectæ res omnes, vt quantitates & qualitates, veluti longitudo, latitudo, & altitudo. Item iustitia, temperantia, eloquentia: Item morbus, valetudo, imbecillitas: quæ si in subiecto aliquo insunt, per se tamen, & tanquam auulsæ & abstractæ considerantur. Infra.

Videsnè quam sutores & calceolarij formam calceorum appellent? Nimirùm lignum oblongum, calcei instar, proportionè aptum, atq; incisum. At iidem formam calcei aliam in mente atq; intelligentia impressam atq; insignitam habent: quæ vna verè proprièq; , tum Idæa, tum forma, & est, & dici debet. Ad quam, tanquam pictores ad exemplar, suam picturam; ità illi opus suum dirigunt. Forma igitur calcei lignea subiectum est: species in mente insita, auulsa atq; abstracta est.

In an other place more plainly.

Iubent enim (s. *Plato & Aristoteles*) poni Calliam procul ad nos longo interuallo venientem. Ea species extrinsecus oblata sensibus continuò generis vniuersi notitiam in animo informat. Primum enim corpus esse intelligimus, mox, vbi propriùs accessit, animal: tum hominem: ad extremum, Calliam. Sic, qui in statione sunt, & procul aliquem venientem intuentur, primum corpus esse animaduertunt; secundò, ex cursu animal esse iudicant: tertio, equitem: quarto, ex colore, amicum vel hostem: postremò, Titium, vel Sempronium. Atq; hi sunt nimirùm notionum & intelligentiarum gradus.

So much I haue borrowed of Hottoman, concerning generall Idæas: too little for Quidditaries: yenough for our purpose. He that desireth more shalbe sure to finde too much, if he doe but once shew himselfe willing to entertaine those euerlasting praters de vniuersalibus.

Morrell in July, to enforce the generall commendation of hills, bringeth in speciall examples, as saint Michaels mount, S. Brigets Bower, Mount Oliuet, Parnassus, Ida: &c.

Before I goe further, it were expedient to yeld some reason why I seuer the generall, speciall, whole and parte from the tractate of diuision, where Ramus placed them. For

The first Booke.

Genus sayth Taleus, significat causam speciei, & species ideo significat effectum generis. itaq; originem suam e primis argumentis ostendunt, quotiesq; genus explicatur a speciebus causa arguitur ex effectis; quoties contra species arguitur e genere, effectus arguitur e causis. Alia tamen est hic inuentionis via, quam illic. Causa enim & effecta subtilius illic explicantur, hic comprehenduntur. Which yet can hardly make me beleue that they be argumentes made of the first, as they should be, if they were secondary argumentes: For I call that secondary which is made of some originall, as diuision and definition is. For as for Coniugates and notation although I giue them leaue for a time to sojourne among the annotations, yet I dare not admit them into the text.

[The generall] hec definitio generis & speciei aduersas superioris & huius topici differentias ostendit: illic integrum sumit essentiam e membris: hic genus essentiam speciebus tribuit: illic membra constituunt totum, hic species constituuntur a genere.

The loall. Et sunt quedam breuia formata super certis casibus de cursu, & de communi consilio totius regni concessa & approbata, quæ quidem nullatenus mutari possunt absq; consensu & voluntate eorum: illic intende originall breues. Sunt etiam breuia ex ijs sequentia, dicuntur Iudicialia, & sapius variantur secundum varietatem placitorum &c. hæc ex *Bracton*.

Done est vne nosme generall pluis que n'est seofment. Car done est generall a tous choses moebles et nyent moebles, et seffment est riens forsq; de soyle. Britton 87. a.

Generale crimen falsi plura sub se continet crimina specialia, quemadmodum de falsis chartis, de falsis mensuris, de falsa moneta &c. *Glanuil.*

Essoniu est {	de malo veniendi	{ ultra mare	{ de seruitio regis.
		{ citra mare	{ terra sancta.
	malo lecti	<i>Bracton.</i> 339.	

21. H. 7. 16. Frowike. Si ieo boyle prescriber, que ieo et tous ceur &c. ont vse de temps &c. a distreyner tous les tenantes a terme de vie, ou d'ans del manoz de D. pur vn ha- roit

roit apres le mozt de chescun tenant &c. ceo est bon prescrip-
tion : car il est in le generalitie ; issintq; comentq; vn ou
deur, ou trois des tenures soyent determines, vncoze auters
poyent demurrer, issint la poet il estre vn contynuance de
les tenants, comentq; diuers mozeront &c.

In 4.H.6.30. There is an argument used from the denial
of all the specials to take away the generall. Recordare, le
def. fist conusance come bayly A.B. file et heire P. le pl. dit,
que A.B. est bastard &c. et sur ceo le def. pria ayd de A.B. et per
Bab et Cott : il auera ayd : mes contra per Strang et Martin.
car par luy, il doyt auer pria l'ayde in le conclusion de son
conusance : et in ple personell home auera ayd puis ple
plede et nemy deuant ; mes in ple reall home auera ayd de-
uant ple pleade. Et n'ad mes deux maners de entries de ayd:
l'un est de ayd deuant ple pleade, s. q. defendens vel tenens
petit auxilium de A. sine quo ipse non potest respondere, et
si soit puis ple plede, le entry est, quod def. petit auxilium
de B. ad manutenendum exitum. Et in cest case il ne poet
estre ad manutenendum exitum, car nul issue est ioyne : et il
ne poet estre, sine quo non potest respondere, car il ad res-
ponde al action, et in le conclusion del ceo ne ad prie ayde et
ideo il est passa l'aduantage del ceo et ne sont plusors entries
del ayd, mes ceur deux.

Elenchs of the whole.

A double Elench lurketh in this place, one of composition
an other of diuision : for composition thus. Humfrey Crow-
ther is a good foler, therefore hee is good : and this fallacian
is from the whole, because those two thinges so ioyned togi-
ther seme to make vp the whole, wherebpon afterward the
part may bee concluded, as though in this erample, Humfrey
Crowther were a whole integrall thing, made and consisting
of these two partes, godnesse and folery. Some other call
this a dicto secundum quid, ad dictum simpliciter, when wee
apply that absolutely and generally which was spoken but
in part and in respect, as here Humfrey is called good, not
generally, for his good conditions, but particularly in respect
of his gitterne. Issint in 9.H.7.19.a. Cestuy que est heyre
al pere et mere, est heyre al pere, mes l'issue del baron et la

R. iiij.

second

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second seme donés in speciall tayle, est heyze al pere et mere; ergo il est heyze generallment al pere et simpliciter, non sequitur, car le pere poet auer firs per le p^rimer seme. Vauisor. expone Maiorem & apparebit fallacia, *Cessuy que est heyze al pere et mere coniunctim, est heyze al pere diuissim*; oze ceo est false. Vide. L. 5. E. 4. 43. Leas fuit fait per abbe et couent, ergo per abbe sole, nul reason. q. an serra intende mesme le leas.

Posu on the other side, Diuision is a fallacian, as it were from the partes, when thinges are seuerally propounded and ioyntly concluded, as

Antony Now-Now is good, and a finger, therefore

Antony Now-Now, is a good finger.

For indéde these two thinges seuerally put downe are not essentiall partes of Antony Now-Now, but onely accidentall qualities: whereas if they had bene his essentiall partes the argument would haue folloved, as here

A man is a liuing and sensible creature, and also
reasonable, therefore

A man is a reasonable liuing creature.

And so in composition. thus,

A man is a sensible creature endued with reason, therefore

A man is sensible; oze therefore A man is reasonable.

Elenchs of the part.

First when you inferre the whole, some of the partes wanting. Isabell Greenesleeues hath a fayre hand, a good leg, a quick eye, therefore shee is a proper fayre woman: it foloweth not, for shee is splayfooted, crookbacked: tunnebellicd, sawtoothed &c. The like is that of Catullus.

Quintia formosa est multis, mihi candida, longa,
recta est: hæc ego sic singula confiteor.

Totum illud, Formosa, nego. Nam nulla venustas,
nulla in tam magno corpore mica salis.

So elstwhere of Formianus his trull.

Salue nec minimo puella naso,
Nec bello pede, nec nigris ocellis,
Nec longis digitis, nec ore sicco,
Nec sanè nimis elegante lingua,

Decostoris

Decoctoris amica Formiani :

Ten' prouincia narrat esse bellam?

Tecum *Lesbia* nostra comparatur?

O seculum insipiens & infacetum.

Vide 44. E. 3. 13. a. b. Vbi Wickingham & Persay disputant, vtrum le playnt d'un molyn in assise abatera, coque fuit troue, que parcell del molyn fuit sur auter terre, issint il n'auoit entier molyn. Et sic come vn sophister petit plus quã oportuit.

Home esteant seisse en fã de certeine terres in vn ville, et in deur hamlets del mesme le ville, deuise tous les terres esteants in le ville, et in vne de les hamlettes per nosme et deuy; riens del terre in l'auter hamlet passera: car son entent appere per l'expressing d'un des hamlets. Mes Browne ex rigore Logices fuit à contra, per vn argument à toto, car le ville conteigne les hamlets, Ergo &c. mes le ley sauour deuises, quia sont faits quant homes gisent in extremis, sans reason ou erudite counsell pur le plus part, 9. Eliz. 27. Dyer. Mes certes auterment, le deuisez plaide but the sophister. Come in trespas bers J. del parish del Aluale in com. S. yeo-man; le def. dd. iudgement del bziese, car in le parishes del Aluale est vn ville appelle Wilton, et le def. iour del bziese purchase fuit demurrant en Wilton, sans ceo que il demurra in le parish del Aluale; cest, sans ceo, est repugnant al matter deuant; car s'il demurra in le ville, et le ville est in le parish, donc; il demurra in le parish, L. 5. E. 4. 20. a. 3. Int in l'auter case, il dona tous les terres in le ville, et ambideur les hamlets sont in le ville, Ergo il dona tous les terres que sont in les hamlets.

Secondly, this place is abused, when the whole is diuided into such partes as hæ not his owne: as when Rhetorike is diuided into Inuention, Disposition, &c. For both these hæ the parts of Logike, not of Rhetorike, as they are commonly taken: but of Elenchs in diuision moze in the tractate of Diuision.

Elenchs of Generall and Speciall.

If a man, when hæ knoweth one or two specials, thinketh that hæ knoweth the generall; hæ is much deceyued:

Al,

but

The first Booke.

but more, if when he hath gotten a generall notion of any Art, he thinketh himselfe a sufficient artificer. For it is one thing to haue a generall and superficial sight in an arte, but another matter, to be able to practise those general precepts in euery particularitie.

In 25. H. 8. 6. a. Shelley abuseth this argument: Si ideo ap le manoz de grand Dirtleby, ideo ap le manoz del Dirtleby. Et le case suit, que sine suit leuy del manoz de D. et in mesme le county fueront deux D, grand et petite. et null sans addition, hic Shelley dit, que passa per le sine pur le reason auant dit: mes Fitz. denia ceo, car ne suit aucun tiel manoz, mes per seement le manoz intendus passeroit per le liuery. Shelley suit deceaue in ceo que il prist grand D et petit D, d'estre specials, et D, sans addition d'estre le generall: et issint reuera, si ideo ap grand D, ideo ap D, come, ceo que est, homo est animal: mes in veritie, grand D et petite D, sont indiuidua, s. singular lieues conues per tiels nosmes sans aucun general chose que conteigne ambideur.

Issint 7. H. 6. 39. Hals arguit eodem modo, Nous ne dedits, mes que il y ad D maior, & D minor deins le county, Ergo il y ad D, argumentum ab inferiore ad suum superius, issint est proue, que il y ad tiel ville. But by his fauour it followeth not, because there is vpper Dale and nether Dale, therfore there must be a third Dale, without addition at all, that is neyther vpper Dale nor neather Dale, but distinct from them both. For, if in one county there be two manozs, the one called grand Higham, the other petite Higham, the true generall to these two singular manozs, is, this word, Manor; and so it will follow well. If, hath the manoz of grand Higham, Ergo If, hath a manoz: but the manoz of Higham is no such generall as should include the manozs of grand Higham and petite Higham. Vide L. 5. E. 4. 47. Mesme le erroz, que Combe conteigne longe Combe et thozt Combe.

The seuenth Chapter.
Of the Subiect.

THus muche shall suffice for the argument fully agreeable : now it followeth to speake of that which is agreeable but in part and after a certeine manner, as is the subiect and the adiunct.

The subiect is that wherevnto some thing is adioyned. The subiect receiueth the adiunct, eyther in it, as the minde learning, the place the thing placed : or to it : & this is either affected by the thing adioyned, as the body receineth garments to it, and is of them affected : or els it doth affect the thing adioyned, as a sicke man recepueth vnto him the physician, and doth affect him, by occuppyng and busying his heade and minde in inuenting remedies for him.

Thenot in February.

You thinke to be Lords of the yeare,
But oft when you count you freed from feare,
Comes the breame winter with chamfred browes,
Full of wrinckles and frosty furrowes.

Where the browes be the subiect of wrinckles and furrowes.

In Aprill, Hobbinoll beginneth his song, in prayse of Elysa, with the subiect of the place, in these verses.

Yee daintie nimpes that in this blessed brooke
doe bathe your brest :

Forfake your watry bowres, and hither looke
at my request.

And eke you Virgins that on *Parnasse* dwell,
Whence floweth *Helicon* the learned well.

Helpe me to blaze

Her worthy prayse.

Which in her sex doth all excell.

Where the Brooke is the subiect to their bodies, and *Parnassus* Mount, to the Well *Helicon*.

In Aprill by Hobbinoll, Elysa is described by her garments and place.

L.g.

See

The first Booke.

See where she sits vpon the grassy greene
ô seemely sight,

Yclad in skarlet a mayden queene
and Ermynes white.

Vpon her head a cremosin coronet,
With damaske Roses and Daffadyllies set,
Bayleaues betweene
And Primeroses greene

Embellishe the sweete Violet.

Where Elysa is the subiect to these particulers, and the
grassy greene the subiect to Elysa.

Maister Plowden: Fol. 217. b. Et enfancy, que est grand
disabilitie, est repugnant all estate del roy; et cément que
enfancy est in le naturall corps, vncoze quant le corps poli-
tike del roy est conioyne a ceo, et vn corps fayt de euy ambi-
deux, tout le corps auera les pproperties, qualities, et de-
grés del corps politique, que est le greinder et le plus digne,
en que il nadmy, ne poet estre, aucun enfancy.

Fol. 237. a. Le roy auoyt en luy trois choses, s. popar,
Justice, et Percy, popar a faire, Justice a ensozcer luy de
faire: et Percy a tayer luy de faire.

Fol. 500. b. Et quant al quart point, si usurpation poet
estre en sur person en personé, tous les Justices agrézont en
vn que il ne poet, eo que leglise ad incumbent, et est pleine.
Car cesty a que le appropriation est fait, est incumbent, et es-
perfect, sicome auter incumbent serroyt, que vient eins per
presentment, institution, et induction. Et adonques ne pou-
ent estre deux incumbents d'un mesme eglise a vne mesme
temps. Car destre incumbent est l'office d'un corps, et si vn
incumbent est, et auter est present, admitte, institute, et in-
duct, tout ceo est boide, sicome vne est officier d'une office pur
vie, come seneschall del manner, ou tiels: patent fait a auter
de mesme l'office presentment, est boide, et le primer per-
son auera action de trespas vers cesty que est darreynement
admitte; et issint person en personé auera action de trespas
vers vn auter que est present, institute, et induct al eglise
appopze a luy, sil intromitte oue le glebe et dismes.

Fol. 280. a. Si home vst moztu intestate le ppropertye de
les

Les biens vient per le comen ley, al ordinary, enfant que le mort nauoit appoint eur a ascun. Car sicome franchement per le course del comen ley serra en ascun, et ne serra en suspence, issint per le comen ley, le propretie del biens serra en ascun, et ne serra en suspence. Et quant home ad propretie en biens, le propretie ne poet estre pluis longement que il viue, et apres sa mort les biens sont a vn auter. come le auncient verse est, da tua dum tua sunt, quia post mortem tua non sunt: adonques enfant que ne point estre soiens apres sa mort, et il nad appoint eur a ascun auter, mes ad relinque eur al monde, le ley done le propretie de eur al ordinary, et a luy (pur ceo que auoyt cure de sa alme en sa vie) le ley done les biens a disposer apres sa mort.

Lieu. Fol. 149. b. Et issint religious persons serront entende tous foits a demurrer a lour meason, et ne poient estre entende destre ailours.

Fol. 37. b. Et en ceo realme sont diuers autozities, et nul poet excéder ses limits et bounds, et pur ceo si le marshall teigne plée de chose fait hors del bierge, ou le Admirall de chose fait en corps le countie, ceo serra boide, car lour autozitie sertend al lieu certeine, et deins certeine pprecinct, et nemy aylours. Et si cesty que ppris sanctuary, va hors, chescun poet luy prendre car il n'est ppriviledge de hors, et issint tous foits le pprecinct del libertie ne poet estre excède, et icy le vicounte nad a faire forsq, en Loundres, et donques quant le pprisner vient hors del libertie del Loundres, a mesme cesty instant il est discharge.

Fol. 396. a. Mes icy, sy Thomas White et les compagnions ne fueront iustices auferment ne as auters cases, que a ceur, queur le commission le roy assigne. et ils sont assigne a faire vne chose, et ils sont auter, cest auter est sans autozitie. Come si vn est eslie arbitrator a faire arbitement sur vne chose, et il fait arbitement sur auter chose, tiel arbitement est voyd tout n'est. Mint icy, ceo que sir Thomas White et ses compagnions fieront fait coram non iudice, et merement voyde.

Fol. 15. a. b. Et pur ceo ico entende ceo come vn pprincipal, quant il est agree perenter ascuns que vn pprincipal chose

L. 14.

serra

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serra fait ou eſue, et deuant que ceo poet eſte fait ou eſue, il
 pad vn auter chose p^rimes deſte fait, et n'eſt certainement
 agrie, que faire le dit auter chose, que le ley appoynt ceſty
 que ad le plus ſcience et ſkyl, a faire le dit auter chose, come
 le bzafier a weyer et mettre en ſew les bells, le taylour a ſha
 per vn toge, le collector a weyer chose pur que le ſubſidie serra
 paye al roy.

Vide Fol. 320.b. Le p^roper ſubiect del courts le roy, come
 Eſchequer, common banche, Banck le roy, en l'information
 pur mynes, l'analyſis du quel eſt annere al fine de ceſt lyuer,

Annotations.

A [Subiect:] Not onely, *ἡ οὐσία*, or *ὁμοούσιος*, an eſſence, or
 ſubſtance, as the common Logicians vſually take it, but
 alſo whatſoeuer can be imagined or ſayned to haue any
 thing adioyned vnto it, in it, or about it: ſo one quality may
 be the ſubiect to another, as in this artome, Vertue is com
 mendable, where commendation is adioyned to vertue, be
 ing the ſubiect thereof.

That ſubiect wherein the adiunct is exerciſed and (as it
 were) ſubſt, is called an obiect, or matter ſubiect, as colours
 be the obiect of ſeing, ſounds of hearing, ſouldiers be buſied
 in fighting, plowmen in plowing, &c. as in thoſe verſes, &c.

Nauita de ventis, de tauris narrat arator.

Enumerat miles vulnera, paſtor oues.

Which being turned, ſutch thoſe that intermedle with mat
 ters of other mens profeſſions.

Nauita de tauris, de ventis narrat arator,

Enumerat paſtor vulnera, miles oues.

The verſes be made by Propertius, and by Ronſard tranſla
 ted into French, thus,

Des vents parle le marinier,

Le labourer de ſes toreaux,

Ses playes compte le guerrier,

Et leurs brebis les paſtoreaux.

Claudian hath the like.

Omnia quæ ſenſu voluntar vota diurno,

Pectore ſopito reddit amica quies.

Venator

Venator defessa thoro cum membra reponit,
 Mens tamen ad sylvas & sua lustra reddit.
 Furto gaudet amans, permutat nauita merces,
 Et vigil elapsas quærit auarus opes.
 Iudicibus lites, aurigæ somnia currus,
 Vanaq; sollicitis meta cauetur equis.
 Me quoq; Musarum studium sub nocte silenti
 Artibus assuetis sollicitare solet.

Canons.

If the subiect be, then by nature, the proper adiuncts
 must also be: the other that be not proper, may be, and may
 not be.

If the subiect be taken away, the adiunct cannot stand.

To whom you giue the subiect, to the same you giue the
 adiunct.

Whatsoever you attribute to the subiect, that you must
 giue the adiunct: but in due and conuenient order.

Of the subiect things be sometimes praised and disprais-
 ed. The house is esteemed by him that dwelleth in the
 house. The place giueth occasion to iudge of that which
 was borne in the place, as, He was borne in Boeotia, there-
 fore he is but a muddy-pated asse.

Explications, illustrations, amplifications, and extenua-
 tions are set from this place: So Cicero to his sonne, Thou
 art at Athens, therefore thou shouldest be learned. Tis a
 Porterne Page, therefore quicke, Tis a Shrewsbury
 fryse, therefore the best.

From hence are almost all poeticall epithetes deducted.

As the subiect is, such is the adiunct. The place often-
 times augmenteth the crime. Locus est entis & non entis,
 corporum, daemonum, &c. sic domus somni, hortus Hesperii-
 dum in loco collocantur.

2. H. 4. 19. Per tous les Justices, que les Justices de
 peace ne poient prendre appel de nul approuer, ne de auter.
 Car leur commission n'estend cy auant.

9. H. 6. 5. In pleading d'arbitrement, le partie doyt mon-
 strer le lieu ou le submission fait fait, et les nommes des ar-
 bitrours,

The first Booke.

Maister Crompton, Folio. 79. 80. &c. Les Justices de pece enquirera ad chescun le lour generall sessions, de ceur que parlont irreuerentment de sacrement de coyps et sanke nostre seignieur Jesu Chyriste. 1. E. 6. cap. 1. & 1. E. cap. 1.

Item de reteyners, liueries, maynteyners, imbracers, bowstaues, archers, illoyall games, sojessallers, regratoys, vitailers et inholders, et de chescun de eur, per, 33. H. 8. cap. 10. & 37. H. 8. cap. 7.

Item de cestuy que tue weinlinges que sont desus Page de deux ans, al intent de vender. contr. 24. H. 8. cap. 9. & 14. El. cap. 11. Et issint de plufoys auters.

Pur le subiect del lieu, Vide L. 5. E. 4. 7. 8. En annuitie vers le Prioz de S. Mary Oueres in Southwarke, in le county de Surrey, le pl. count sur fait a Londres in le parish de S. Dunstane, in le garde de Faringdone, et le fait est dated, in domo capitulari eiusdem domus. Per Choke, ceo ne poet estre per comen entendement, que le Chapter del S. Mary Oueres in Southwark que est in Surrey ferra le fait in Fleet-streete in Londres &c. mes per speciall matter monstre il poet, car vbi personæ, ibi Capitulum: Mes si le date est, in monasterio domus prædictæ, ceo per null entendement ferra prise alibi, que in Southwarke ou le meason est, car le material meason n'est remouable, come le Chapter est.

Accessorium sequitur suum principale, hinc versus

Quicquid plantatur, feritur, vel inædificatur,

Omne solo cædit, radices si tamen egit.

Sublato principali, tollitur accessorium. Nam, non entis non sunt qualitates. Ieo enditera vn home pur asporter ieunes pigeons hozs de mon Columbier, ou ieunes goshaux engendrez en ma parke, car le propretie est in moy et ieo poy eur prendre a mon pleasure, car ils ne povent aler de hozs. Contra del auncient haukes ou pigeons que povent fuer. Sic ieo enditera pur prisel des pikes ou fenches hozs d'un ponde ou tronche, causa qua supra, contra sils soyent prises en le ryuer, coq; a oze ieo ay null propretie in eur, 18. E. 4. 8.

Elenchs.

The Lawe abhozreth such thinges as are done without authoritie

or commission, coram non iudice. So 10. H. 4. 2. *Præmunire* facias issist de ceo que le def. auer sue al court de Rome de chose dont consufance apertient al court le roy. See the booke called, *Diuerfities des courtes et leur Jurifdictions*, where in the matter subiect of the *Parthalsea*, *Kings bench*, *Common place*, *Chauncery*, *Eschequer*, *Cinque portes*, &c. is distinctly put downe. For the authoritie of courts is limited, neyther is it lawfull to intrude sophistically, or iniurioufly incroache one vppon another. Vide 3. 4. P. & M. 14. *Dyer*. Fuit enact, que les quarter seffions de Anglesey ferreront tenues in Beaumaris : et les Justices de peace teigne eur ad Newburge, et la pzeigne inditeiments de felony : ceur inditeiments fueront boyde, et coram non iudice. Vide 22. E. 4. 33. a. b. Commission est direct as certeine homes de oper tantum, et ils oyont et determinont, cest coram non iudice : Sic s'ils oyont matters hors del compas del commission. Sic si in common bancke vn appelle de mozt ou robbery soynt port, &c. et le party est attaint, cest coram non iudice, car leur patent ne dona al euy cest poyar et autoritie.

The eight Chapter.

Of the Adiunct.



An adiunct is that wherunto something is subiect. An adiunct is eyther Inherent in the subiect, or adherent to it.

The adherent adiunct doth eyther affect the subiect : or is affected by it. So vertues, vices, learning, and all such qualities are adiuncts to mans minde.

And as euery place is the subiect of the thing placed : so, time, that is to say, the continuance of euery thing, is the adiunct of those thinges which doe continue in time.

So all qualities which eyther be proper, as laughing to a man : or common, as whitenesse to a stone, and a wall, are truly called adiuncts.

Finally euery thing which agreeth vnto an other, being neyther the cause, nor the effect thereof, is an adiunct of the thing

The first Booke.

Thing whereunto it dooth agree.

Colyn Clowt in January sayth.

All as the sheepe, such was the shepheardes looke,
For pale and wanne hee was, alas the while.
May seeme he lou'd, or els some care hee tooke, &c.

Thenot in February of himselfe,

Selfe haue I worne out thrise thrittie yeares,
Some in much ioy, many in many teares :

Where the thrise thrittie yeares, be an adiunct.

In March Thomalin argueth the spring to be at hand, by
these adiunctes.

The grasse now gins to bee refresh't,

The swallow peepes out of her nest,

And cloudy *Welkin* cleareth.

In Iuly Thomalin describeth Abell by his adiuncts com-
pared.

As meeke hee was as meeke mought bee,

Simple, as simple sheepe :

Humble, and like in eche degree

The flocke which hee did keepe.

And in the same discourse displaying the demeanour of our
shepheardes and their pompe and gorgeous attire,

But now (thanked be God therefore)

the worlde is well amend,

Their weedes bene not so nighly wore.

Such simpleesse mought them shend.

They bene yclad in Purple and Pale

So hath their God them blist.

They reigne and rulen ouer all,

And Lord it as their list

Ygyrt with belts of glitter and gold, &c.

In August Perigot describeth his bounding *Bellibone* by hir
attire.

I saw the bounding *Bellibone*

hey ho *Bonibell*

Tripping ouer the Dale alone,

Shee can trip it very well.

Well decked in a frock of gray.

Hey

Hey ho, gray is greete.

And in a kirtle of greene say

The greene is for maydens meete,

A chapelet on her head she wore

Hey ho chapelet :

Of sweete violets therein was store,

Shee sweeter then the Violet,

In Nouember Colyn vseth this argument very oft in declaration manner, where he bewayleth Didoes death, as

Coloured chapelets.

Knotted Rusherings.

Gilt Rosemary.

Mantled Meadows &c.

Thomalin in Iuly.

The hills where dwelled holy saintes

I reuerence and adore,

Not for themselues, but for the sainctes,

Which haue bee dead of yore.

By consideration of all these agréable argumentes, things that differ one from an other, are called one, the same, or agréable.

So before, Colyn in January, was sayd to haue the same loke that his sheepe had,

All as the sheepe such was the shepheardes lookes

For pale and wanne he was, alas the while &c.

Meaning one in adiunct, not in essence. And so in like manner of the rest of the agréable argumentes we may say.

Fol. 357. a. Et quant al ceo, ils disoient que fines oût estre de tresgrand antiquité al comen ley. Car ils ount este si longement come ascun court de record ad estre. Et ils fueront per le comen ley assurance plus fort, et de plus grande force et puissance. Et issint sont terme per lestatute de modo leuandi fines, &c.

Fol. 413. b. Le deuissour serra accompt inops consiliij, pur ceo que volantes de plus souent sont faites quant homes sont gisant en extremes et faubzont counsell. Et pur ceo le ley enterpretera les parols, et directera sa opération accordant al entent del partie.

The first Booke.

Fol. 101. b. Et donques icy, quant il fuit arraigne pur le tuer del home sur malice pze pense, le substance del matter fuit, sil luy tue ou nemy, et le malice pze pense n'est que del forme ou circumstance de tuer. Et coment que le malice pze pense fait le act plus obious, et pur ceo cause l'offendour de perdre diuers adnantages que auterment il aueroit, come sanctuary et clergy, et tiels semblables, vncoze il n'est auter que le manner del fait, et nemy le substance del fait. Car le substance del fait est le tuer de luy: et adonques quant le substance del fait et le manner del fait sont mise en issue ensemblement, si les iuroys troueront le substance, et nemy le manner, vncoze iudgement serra done sur le substance. Comme si home arraigne assise pur disseisin oue force, et le defendant plede al generall issue, et les iuroys troueront le disseisin, mes nemy oue force, vncoze le pleintife auera son iudgement: car le forcious expulsion fuit le substance, et le force, le manner. Et adonques quant le substance est trouee, il auera iudgement pur ceo, et serra acquite del force, &c.

Fol. 381. Et quant al auter point, il dit que coment que le rent charge est nouel rent commenceant per graunt, vncoze il est issint approprie al office que il ne serra seure del office cy longement come le office continue: issint que si le office ne serra forseite, le rent que est annere al ceo ne serra forseite. Car si vn grant estouers a vn autre d'estre arse en tiel meason, il est appartenant al meason. Et issint comen graunt en tiel lieu a vn pur ses auers leuant et couchant en son ferme de Dale, le comen est fait appartenant a ceo, issint que il que ad le meason per quecunq; title que il vient a ceo apres, auera les estouers: et il que apres viendra al ferme, auera le comen: et les estouers ne poient estre seure del meason, ne le comen del ferme, si non per extientissement. Car sil que ad le meason boile graunter les estouers a vn auter reseruant a luy le meason, ou le meason a vn auter, reseruant a luy les estouers: les estouers ne serront separete del meason per ceo, pur ceo que serront expende en mesme le meason. Et issint le fee icy est graunt pur le exercise del office, et l'office fuit receiue en respect del fee, & sic officium & foedum sunt concomitantia, et l'un ensue l'auter et le fee continua

tinua oue l'office come incident inseperable : & quæ sequuntur in eodem loco, del annuitie graunt pro consilio impendendo; de office del roy de Haroldes, graunt a Garter, cum foedis & proficiuis ab antiquo &c. 5. E. 4. Fol. vltimo. Et del graunt de r. li. à Garter ad terminum vitæ suæ ratione & causa officij. 7. E. 4. Fol. 23. et del annuitie graunt per le roy, Iohanni clerico coronæ, ad terminum vitæ suæ; en queur cas, le sœ est annere al office, et est determinable oue l'office.

Fol. 26. b. Si vn reteigne vn auter a seruer pur an pur le salary de xx.s. la si le seruant demand les xx.s. il doit monstrer que le temps est passé, cest assauoir, l'an eppire, et doit ceo pleder certeine, pur ceo que son action est done en respect del an passé, et del chose fait en temps, et le temps est parcell del cause del demaunde, et pcede le demaunde.

Annotations.

ADiunct:] The same almost which the Græcians call *συνεργία*, and *συνεργισμός*, circumstances, if you take that word largely for whatsoever is added to a thing after it is once framed and made of his essentiall causes, and some of them pceder from the vnitig and coniunction of the forme and matter immediately, which are commonly inseperable, as laughig to a man &c. Some are but hangbyes and remouable, or separable, and, as it were, tenants at wil, as white, blacke to the wall, &c.

Adiuncts therefore, not Accidents are they heere called: for Accidens is of it selfe, infinite and vndeterminate, and doth properly apperteyne to the accidentall cause, which we before tearmed chaunce, hap, or hazard: and it conteyneth effectes, adiunctes and comparates; so that the name being neyther fitte, nor applyable to this place, I haue displaced it purposely.

[One and the same:] Heere is Logically put downe all that, which others peruersly teach in their diuers sortes of Idemtitie. as, Genere, Specie, Numero.

Some there be that giue a proper and peculiar place to signes and coniecturall tokens: but friuolously. For they be long all epyther to this of adiuncts, or that other of effectes, or els they be testimonies and witnesses.

The first Booke.

Canons.

If the proper adiunct be, then the subject must commonly be: and if the subject be, the proper adiunct must also be.

To whome soeuer you ascribe the adiunct, to the same you must attribute the effect proceeding from the same adiunct.

That which is rightly applied to the inherent adiunct, must be applied also to the receiuing subject.

Here are gathered diuers physiognomicall coniectures, as that of Martiall.

Crine ruber, niger ore, breuis pede, lumine locus,

Rem magnam præstas, Zoile, si bonus es.

Hence are also set prayles and disprayles, deliberations and consultations. Herein are contained all those Rhetoricall places concerning the gistes and qualities of body and soule, as also externall and those of fortune.

If the adiunct be occupied or exercised, then the subject must be that exerciseth the same.

To whatsoeuer you ascribe the adiunct which is occupied, to the same you must giue the subject: and what you apply to it, you must also attribute to this.

Sometime the adiunct together with the subject is taken but for one onely argument, as when I say: The murdering and vsurping Tyrant, Richard the third, was deservedly slayne: and yet neuerthelesse here the subject is argued in some respect by the adiunctes, in that it is thereby described and declared.

Some adiunctes be antecedent or going before, some againe present and conioyned, lastly some others consequent and following. Therefore some other Logicians haue made these three kinds of adiuncts, three seuerall kinds of arguments, as Antecedentia, adiuncta, consequentia.

Naturall Philosophers, Philistians, Astronomers, and other professors vse much this place: as when they dispute of chaunge of weather, diuersitie of causes and occasions of diseases, signes of stormes and tempestes, as, *vento rubet aurea Phoebe*, when the Moone is red, she betokeneth wind. These common adiunctes be called *τα κοινὰς συµβέσθηκτα, τὰ ὡς ἐπὶ τὸ πολὺ, τὰ μὴ ἀεὶ ἐπαύλα.*

10. H. 6. 21. Merchante est bon addition, & eadem lex de wydowe, ou single woman.

Servant n'est addition, car est trope generall. L. 5. E. 4. 22. Vide 14. E. 4. 7. quel serra le addition d'un feme, que est ne mayde, widow, ne wife.

Vide 31. & 32. H. 8. 5. Dyer. Spynster est addition cy bien al home, come al feme, car per Spylman in Norfolke sont diuers homes qui sont wyfsted spynsters.

Maister Lambard. Iustit. lib. 2. cap. 5. M. Marrow sayth, that five principall things bee most commonly requisite in presentments before Justices of peace.

1 The name, surname, and addition of the party indited.

2 The yeare, day, and place, in which the offence was done.

3. The name of the person to whome the offence was done.

4 The name and value of the thing in which the offence was committed.

5 The manner of the facte, and the nature of the offence, as the manner of the treason, murder, felony, or trespasse.

Ad: Temp. Maister Lambard. Iust. lib. 2. cap. 19. Touching the continuance of these quarter sessions, I have shortly but this one thing to say: that almost two hundred yeres ago, it was ordeined by statute (12. R. 2. cap. 10.) that they should bee continued thre dayes together, if neede were, vpon paine of punishment. And yet, in these dayes of ours, where in the affayres of the sessions bee exceedingly increased (and consequently moze neede to continue them now then before) many do skantly afforde them thre whole houres, besides that time which is spent in giuing of the charge.

Maister Crompton, Iust. Fol. 65. hath a number of adiuncts, effects, subiects, &c.

Inprimis couient consider le qualitie del home, le quel il est semble a faire tiel felonious act, ou nemy.

Item quel chose doyt luy mouer d'attempter tiel enterprise.

Item le quel il fist le murder, sur ascun displeasure deuant conceue, ou sur sodein anger.

The first Booke.

Item lequel il expect per son mozt, d'aueu ou receiuer aucun cōmodity, come terre, office, argent, ou aucun autre gaine.

Item lequel il est vn que ne regard le tuer de home, ou fil ad ew pardon ou ad estre acquite pur tuer de home auant cest tēps, car tiels choses face homes d'aueu luy in suspicion.

Item le pais ou home fuit nee, declare aucun foits son naturall inclination, come si l'vst estre nee, ou educatus enter les homes de Tyddesdale et Ryddesdale, poet estre plus tost suspect.

Item dequel trade il est, et per quel occupation il viue.

Item lequel soit gamester ou haunter de alehouses, ou vn companion inter ruffians.

Item dequel abilitie il est, et coment il auient a ceo que il ad, fil ad aucun chose.

Item quel apparel il vse, et lequel il ama valler bzaument ou nemy.

Item dequel nature il est, lequel soit hastie, brady, ou prest de quarreler.

Item queur hyffes il ad de temps en temps, et quel chose luy moue de sayre tiel haynous act.

Item lequel le home fuit tue In le haut chemyn ou en boys, ou perenter deux hilles, ou lequel prochein vn hedg, ou autre secret lieu.

Item lequel fuit en le matyne, ou sere en le nuite, et lequel fuit bie'u la circa tiel temps.

Item lequel il sensua apres l'act commit, ou auera aucun sank sur luy, ou fil tremble ou stagggar, ou soit contrary, en disant de son tale, et coment il gard son countenance.

Item lequel auer esperance de garder son fact secretment per reason del place, temps, et le maner de son secret seafans.

Item d'aueu tesmoignes examines de son esteant en ceo place, ou en autre place, al temps del act fait.

Item compare le force de murderer oue le weakenes, armoz oue le nakednes, stoutnes oue le simplicity d'aueu.

Item son confess ion demesne, Wilson Rhet. Fol. 17.

Item si soit vagarant, & nullam exercens artem, nec laborem, ou si certain d'ebiens embles fuer in son possession. 7. E. 4. 10.

Item

Item si quis appellatus fuerit à probatore, & fugerit propter appellum, & mortuo probatore redierit, est suspiciosus per *Bracton*.

Item fama quæ suspicionem inducit, oriri debet apud bonos & graues, non quidem maleuolos & maledicos, sed prouidas & fide dignas personas, non semel, sed sæpius; quia clamor innuit, & defamatio manifestat, & vanæ voces populi non sunt audiendæ. Idem *Bracton*.

Item si alcun soit impzisonne pur suspicion de felony, et eschapa, ou fait tout que en luy est, de eschaper, est grand suspicion que il est culpable. *Stamf. 130.*

Item si quis noctu cubauerit in domo solus cum aliquo qui interfectus sit, vel si duo vel plures ibi fuerint, & hutesium nõ leuauerint, nec plagam à latronibus vel interfectoꝝ in defensione facienda acceperint, nec ostendunt quis, de se, vel de alijs hominem interfecerit, his casibus mortem dedicere non possunt. *Bracton*.

Item si quis notum vel ignotum in domum suam acceperit, qui viuus ingredi visus sit, verum postea nunquam nisi mortuus: dominus domus, si tunc domi sit, vel alij de familia qui tunc interfuerunt, poenam capitalem subibunt, nisi fortè per patriam fuerint liberati. Idem.

Item communis vox & fama est sufficient cause de suspicion de felony, sans auter especiall matter alledge. per *Curiam*, 5. H. 7. 2. H. 7. 6.

Item si home soit robbe, ascuns boile pzender le mesure de les pès de les robbers, et de les chiuals, et si cesty que est robbe ad suspicion d'alcun il boile causer le mesure d'estre mis al pè de tiel person, et son chiual, et sils accorde, il poet estre suspitious.

Item si home appelle auter traitour. et il dit rien a ceo, il est cause le luy arrester pur suspicion, et pur ceo couient que il responde a ceo. *Fitz. coro. 24. 37. H. 6.* per les Justices, issint semble ou home appelle auter thèse, et il dit rien a cell, &c.

Item Nota, il est vse, ou home est suspect d'auer murdre auter, d'amesner luy al mort coꝝps et sur cel il ad estre bieu, que le coꝝps ad nouelment met hoꝝs sanke, videlicet, hath

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bled freshly, siccome vsi este nouelment tue. Et sur ceo il ad este pris, et condemne, et quant il ale al executiō, il ad conus le fact.

Adiuncts hēe moze plentifull, saith Ramus, but subiectes moze forcible in arguing, as, hēe lookes, ergo hēe loues, it foloweth not so well, as thus, hēe loues, ergo hēe lookes. Yet some like not of this note. For, say they, if you consider the subiect and the adiunct Logically, then the one dooth equally argue the other, but if phisically, then that is heterogeneous and impertinent.

As the place, so the time may inhaunce or diminishe the value of thinges. So that, as a man may plus petere loco, so may hēe also tempore. Qui tardius soluit, minus soluit, sic qui commodori loco. Qui citius petit, plus petit, sic qui loco magis remoto. Nam vt dies est pars obligationis, sic tempus.

11. H. 4. 31. b. Hill. Home prist mon sirs bien vestue, luy dispoyle, et dona a luy vn drape, ieo auera le drape quia ieo auera le corps que il couer: sic adulter best ma feme &c.

A les Justices pertient pur doner iudgment, oyer, recorder, agarder proces &c. a les Clerkes pur escriuer ceo que les Justices agardont, a le vicount pur retourner byiefs a luy directes &c. 7. H. 6. 30. Hals.

Si action de wast soit oze done generalment vers tenant in taylor apzès possibilitie distue extinct, treble damages serront recouer vers luy sans plusors parols, car ceur sont adioynts a ceo per le former statute: et quant ceo est done in nouel case, tout que est adioynt a ceo est done one ceo similiter.

Donatio officij del Crigenter de London &c. pertinet ad dispositionem capitalis Iusticiarij pro tempore existentis, vt incidens inseparabile ad personam dicti capitalis Iusticiarij spectans, & hoc ratione prescriptionis & vsus. 1. & 2. Elis. 25. Dyer.

1. H. 4. 6. per Gascoigne, si le roy per parols generals graunta choses a queur auters sont incidents queur ne sont seuerables, les incidents passent. Come sil graunta moy terre cum pertinentijs, a que comon est appendant, le comon passa.

Tyrwit dit, si le roy graunta moy le foundation d'un abbey,

abbey, le corodre passa : Juint sil graunta sayze, ieo auera vn court de pipouders incident a ceo.

Vide Parkins page. 24. Des incidents que passent per le graunt des principals : come sealtie est incident al homage et al rent, rent al reuersion, aduouson al manor.

Acquitall est incident al franchalmoigne, Littleton, 32. 1. acquitall et garrantie sont incidents al Homage aunces frel, Little. 32. Distresse al rent seruice, 51. Distres al rent reserue sur egalitie del partition, 55. Suruivoz al Joynter nancy. 52.

Vide 12. H. 8. 7. 8. 9. Brooke Justice sayth that, le person ad le se&simple in iure ecclesie, whereunto agrath Elyot. Brudnell, semble que le person ad le se&simple, car le patron n'ad aucun interest mes solement le presentment. But Polard will haue it in the Patrone.

Elenchs.

This place, as others, is then abused, when false adiuncts be applied, or others not orderly applied.

The ninth Chapter.

Of the diuers or different.

Hitherto of argumentes agreeable, now followe the disagreeable.

A disagreeable argument is that which disagreeeth from the thing which it doth argue.

The one of these ioyned or compared with the other appeareth moze plainely.

Disagreeable argumentes be ether diuers or opposite. Diuers or different are disagreeable argumentes which differ onely in respect, and are onely fit for declaration : they are often in authors, and many of them be expressed by these signes, Not this, but that.

Colyn in January, Colyn loude not Hobbinol, but Rosalinde.

Maister Plowden : Fol. 82. a. Car parols, que ne sont aufer, que le verberation del aper, ne sont l'estatute, mes solement

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ment le image del statute, et le vie del statute rest en les ments del expositoꝝ del parols, quels sont les seasoꝝ del statute.

Annotations. Elenches.

ONely in respect:] not indeede, and naturally, in respect of the thinges themselves, which may very well oftentimes concurre in one, but onely in respect of his meaning, that so put them downe. Wherefoze the vse of diuers argumentes is in distinction, and euident explication, not in confirmation. L. 5. E 4. 7. per Bryan: les walles, timber, couerture, pieres &c. del Chapterhouse, ne seront dits properment le Chapterhouse, mes lou le couent et Chapter sont, la properment est le Chapterhouse. In that saying of Christ, I come not to send peace, but the sword, if we entend this conclusion, I come to send the sword, therefore not peace, then the argumentes bee repugnant, sayth Wallerleider: but if we take it as spoken onely for explication and distinction, then they bee used as diuers.

Ramus first found diuersa; Rodolphus Agricola, disparata, which he calleth differentia.

This place is abused, when such thinges bee put downe for diuers, which are not diuers properly.

The tenth Chapter.

Of Opposites.



Opposites are disagreeable argumentes which disagree both in respect, and in matter it selfe, and therefore cannot agree vnto the same thing, according to the same part, respect, or time, as the same man cannot bee hote and colde in the same part of his body, at the same time. So Socrates cannot bee father and sonne to the same man: sick and whole at the same time: Insomuch that if one of them bee affirmed, the other must bee denyed, and contrarily: but necessarily in the first; contingently in the second.

Opposites

Opposites are eyther Disparates or contraries. Duparates are sundry opposites wherof one is equally and in like manner opposed vnto many.

Hobbinoll in Appyll in his song of Elifa.

Bring here the Pincke and purple Cullambine
with Gelliflowres :

Bring Coronations, and Sops in wine
worne of paramours,

Strow me the ground with Daffadowndilleyes,
And Cowslyps, and Kingcups, and loued Lillyes,
The prety Paunce,
And the Cheuifance

Shall match with the faire Flowrede'i.e.

All which herbes bee equally differing one from another, and are therefore Disparates.

P. Plowden Fol. 170. a. b. Mes vn grosse nosme poet con-
teigner diuers choses corporall, come Manoz, Monastery,
Rectorz, Castell, Honor, et tiels semblables. Car eux sont
choses compound, et poient conteyner tout ensemble, meill-
ages, terres, prées, bois et tiels semblables.

Annotations.

Equally:] not as though one Disparate shoulde differ
equally from all the other. But equally signifieth vicif-
sim, simul, alike, in like manner, againe, &c. Wasserleider.

Disparo signifieth to seuer, or separate. Of that word com-
meth Disparata, that is, thinges seuered, or put a sunder one
from another.

Canons.

If one Disparate bee equally opposed to many, then cer-
teinly, if one of them bee affirmed, all the rest must be denied.
But if one among all bee denied, you cannot straightwayes
infer any other what you list, but some one of the same kind
of thinges. And therefore, from the first part of the Canon,
commeth a necessary arionie, but from the seconde, a contin-
gent. What then if I should thus reason?

If this man bee not a Lawyer, hee is a Diuine.

Or thus, out of Virgil.

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If the Spartane mayd bee not a woman, shee is a goddess. These axiomes false or no? I answer, they bee not altogether false, but contingent. And therefore I said before, that if one of them bee affirmed, the other must bee denyed, and contrarily, that is, if one of them bee denyed, the other must bee affirmed: for, as in this argument, so in many others, the common Logicians very rashly say, it dooth not followe, if it doe not follow necessarily: Whereas notwithstanding it may follow, although it follow contingently. So then the one affirmed, the other is denyed necessarily: but the one being denyed, another shall bee affirmed contingently, as I sayde in the text.

Paister Lambard. Iust. lib. 1. cap. 12. Capitall or deadly punishment is done sundry wayes, as by hanging, burning, boyling, or pressing.

Not Capitall is of diuers sortes also, as cutting of the hande or eare, burning or marking the hande or face, boaring through the eare, whipping, imprisoning, stocking, setting on the pillorey or cucking-stole, which in olde time was called the tumbrell, and of olde, but not now, pulling out of the tong for false rumors, cutting off the nose for adultery, taking away the priuy partes for counterfeiting of money.

Pecuniary punishments bee diuers, as issues, fines, amerciaments, and forfeiture of offices, goods, and lands &c.

The Romanes vsed specially eight sorts of chastisements, Damnum, vincula, verbera, talio, ignominia, exilium, seruitus, mors.

Elenchis.

When diuers bee put downe as Disparates. So in Martiall.

Pinxisti venerem, colis, *Artemidore, Minervam,*

Et miraris opus displicuisse tuum?

For both these things might bee done together by Artemidorus well ynough, and yet his worke displease no man.

The

The eleuenth Chapter.

Of Contraries.



Contraries be such opposites, whereof eyther one is onely opposite to one, or one to two, but more to the one of them, than to the other. They be Relatiues or repugnant. Relatiues are contraries, whereof the one is so opposed to the other, as yet there may be in other respects a mutuall consent and reciprocall relation betwene them, whereupon they be called Relatiues, as father, sonne, husband, wife, &c.

In May Palinode.

So schooled the gate his wanton sonne,

That answered her mother, all should be done.

Maister Plowden. Fol. 121. b. Le greinder est in respect del meynder : et issint en ceo que il affirme le conusance del greinder number, il affirme auri le conusace del meynder &c.

Repugnant arguments be such contraries, whereof one is so opposite to one, or at the most to two, as that there can neuer any agrement be found betwene them. So Warre is onely opposite to peace : but couetousnes to liberality and prodigality, yet more to prodigality.

Sheepheard I list none accordance make

With sheepheard that does the right way forsake :

And of the twayne, if choyse were to mee,

Had leuer my foe than my friend to bee.

Colyn in December.

Loue they him called that gaue mee checkmate,

But better mought they haue behot him hate.

Perigot in August.

Ah Willy, when the hart is ill assayde,

How can bagpipe, or ioynts be well apayde ?

Maister Plowden Fol. 467. a. Et issint il apiert diuersitie, (he should haue sayde rather Repugnancy) enter les deux equities, car l'un abridge, l'auter enlarge : l'un dymynisha, l'auter amplifie : l'un tolle de le letter, l'auter ad al ceo.

Fol. 274. a. Car hoys de memozy, et hoys de conusance, est

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tout vn. Et ambideux ces phzales signifie ignorance del temps; et quant le partie pziſt conuſance del temps, il n'eſtoit en ſa bouche a dire, que il eſt ignozant de meſme le temps. Car ignozance et ſcience ſont contraries repugnant, et d'aſſirmer contraries, null ſerra ſuſſer per noſtre ley.

Under Repugnant arguments be contained Relatiues, as blindnes is oppoſed to ſight; darkenes to light; death to life.

Piers in Day.

For what concord han light and darke ſam?

Willen et franck home ſont pziuatiues. ſic Plowden 397.a.

And thus much of diſagreeable argumentes, by which one thing is ſayd to be different from another.

Annotations.

This word, Contrary, betokeneth no diſtinct and ſpeciall determinate argument, but is a generall affection incident to diuers ſpecials. Therefore in Iudgement we ſhould not ſay, the argument is from the contrary, but from this or that kind of contrary, for all contraries argue not alike. And ſo in other arguments we muſt not ſticke in the generalitie, but deſcend to particulars, as, what cauſe, what ſubiect, what adiunct.

Cum res due ita comparantur, vt ex earum altera affirmata, affirmetur altera, ex altera negata, negetur altera, tum illæ ſunt ſententia, vt *Aegiftus* eſt otioſus, ergo adulter: Efficiens non habet instrumenta ad ædificandum, ergo non poteſt ædificare: Cauſa & efficiens vtrobiq;: Sed cum ex vna affirmat a, altera negatur, vel ex vna negata altera affirmatur, tum ſunt diſſentanea, vt *Sophoniscus* fuit pater *Socratis*, ergo non filius: & *Socrates* fuit *Sophonisci* filius, ergo non pater: hic cauſa & effectum ſunt, ſed conſiderantur, vt diſſentanea: quia ex altero affirmato negatur alterum. Et non eſt abſurdū, quod vna eademq; res, diuerſo reſpectu, ſit & ſententia & diſſentanea. Itaq; teneamus Relata. Pifcator.

Scribonius would haue the nature of Relatiues generally put downe immediat ely after the generall definition of an argument in the firſt Chapter. Becauſe, as a father cannot be ſomuch

ſomuch as imagined without a ſonne, nor a ſonne without a father, ſo no more can a cauſe without a thing cauſed, thing cauſed without a cauſe, ſubiect without adiunct, adiunct without ſubiect &c.

Sometimes the Relatiues haue both diſtinct names, as father, ſonne, ſometimes but one name, as a brother is hee that hath a brother. a diſparate is that which hath a diſparate.

One Relatiue doth define and expound another. So the cauſe is defined by the thing cauſed, and this by that &c.

Relata ſunt ſimul natura, for though Dauid were Dauid beſore Salomon was boꝛne, yet Dauid was neuer Salomons father, beſore Salomon was Dauids ſonne.

Relata ita contraria ſunt, vt non ſint ſine medio: nam inter patrem & filium, eſt medius, qui neq; pater, neq; filius eſt.

I. Guyer ſuit endite deuant le Coꝛoner ſuper viſum corporis, del moꝛt Emeline Guyer ſa ſeme. Et l'enditement ſuit, que le dit Emelyne ſuit in pace domini regis, quouſq; antedictus I. Guyer, vir præfatæ Emelyne Guyer &c. reſt inditement ſuit challenge. Car il poet eſtre intend aſſets bien per l'enditement, que le ſeme n'eſt occiſe, mes eſt in vie, et iſſint repugnant en luy meſme, eoq; le dit I. Guyer eſt appelle vir præfatæ Emelyne, ou il ſerroyt, nuper vir, car vir eſt coꝛrelatiue al ſeme, et ne poet eſtre vir niſi in reſpectu vxoris &c. 31. 32. H. 8. 3. Dyer.

Il ne eſt poſſible, que vn perſon poet eſtre ſouereigne et ſubiect. 4. Eliſ. 22. Dyer.

That which agreth with one of the Relatiues, commonly agreth with the other, as if it be honeſt to teach, it is no ſhame to learne.

Relatiues in our law be, as, ſeignior tenant, paramount per anayle, playntife defendant, demandant tenant, garde gardeine, leſſor leſſee, donoꝛ donee, grauntoꝛ grauntee, leſſor leſſee, diſſeiſor diſſeiſee, conuſer conuſee, baron ſeme &c.

Repugnants,

If one repugnant argument be denyed, the other muſt be affirmed, if there be no third thing put betwæne them.

Although Contraries cannot be applyed vnto the ſame thing, yet the ſame thing may be applyed vnto contraries.

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Priuatues.

The first Booke.

Priuatues.

Priuatues they call those whereof one denieth onely in that subiect wherevnto the affirmative agreeth by nature (affirmative is that which doth affirme and lay down some thing to bee or imagined to bee) and here the affirmative is called the habite, the negative the priuation thereof. A stone therefore cannot bee called blinde, for that it was neuer framed of nature to bee capable of sight, but it may bee called, not seeing.

Crompton : Fol. 29. Home tua auter quant est ebrius, il terra pendus quant est sober.

Priuatues be, In prison alarg. compos mentis, non sane memorie : aueugle surde, mute. &c.

Priuatio presupponit habitum, vnde illa consecraria, non videtur rem amittere cuius propria non fuit. Non potest videri defuisse habere, qui nunquam habuit. Quod quis, si velit, habere non potest, id repudiare non potest. Eius est non velle, qui potest velle. Expressa nocent, non expressa non nocent. Qui tacet, non utiq; fatetur, sed tamen verum est eum non negare. Cum architecti quidam palatium edificarent in via publica, & cum proiecto lapide proclamassent, quidam iter illac faciens, lapide vulneratus, architectos omnes in ius vocauit: ab his consultus Pyleus animaduertit, eos probare non posse, quod proclamassent: itaq; non ius, ait, deficit, sed probatio. Cum igitur cras in iudicium veneritis, caute, ne verbum proferatis, sed me solum loqui sinatis: die igitur iudicij constituto, cum à iudice accusationi respondere iussi essent, & Pyleus illos vt mutos excusaret, ibi aduersarius id pernegare cepit, quoniam ipsos, cum vulneraretur, clamantes audisset, vt sibi caueret: quæ verba Pyleus statim ad acta referri iussit. & ita eos à lite liberauit. Baldus in sua pract. tit. de cautelis.

As for contradictories, it were vtterly impertinent to make any discourse of them in this place, as wholly belonging to axiomaticall disposition, wherevnto all contradictions are naturally incident, howsoeuer Beurhusius distinguish in this case.

Elenchs.

In relatines, Omnia castor emis, sic fiet vt omnia vendat.
Martuall.

Marshall. Indeed if Castor buy all, some body must needs sell all: but it followeth not that therefore, Castor must sell all.

In Repugnant: Whitenes is a colour, therefore blackenes is no colour. It followeth not. For, as I sayd before, contraries generally are not such, of the which one and the same thing cannot be affirmed, but such as cannot be affirmed of one and the same thing.

So in Relatiues. Tibullus lib. 1.

At vos exiguos pecori, furesq; lupiq;

Parcite: de magno est præda petenda grege.

It followeth not, that because a pray is to be taken of a great flocke, therefore nothing is to be taken of a little one.

So in Priuatiues,

Hee that seeth is aliue, therefore

Hee that is blinde, is dead.

The 12. Chapter.

Of secondary Argumentes.

THus much of originall and first arguments. The secondary remaineth which is made of the ioyning together of the first, and argueth as the first doe from whence it is deriued, as the cause therefore argueth absolutely, so such secondary arguments as are made of the cause, and so in the rest, according as their several kinde of arguing is.

The Argument made of the first is eyther Distribution or Definition.

Annotations.

RAmus to these two which I haue put downe, addeth other two, Coniugates, and Notation, as argumentes made of the first. As for Coniugates, I see in them no new different force of arguing, as hee is iust, for hee dealeth iustly: here is nothing in effect, but the cause and the effect. For as for the deriuation of this word, Iulle, from Justice, it seemeth also, ther grammaticall: and whereas they both doe fitly allude in

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the ende and falling, thus, Justice Just, Justly, that cometh from a Rhetoricall figure, called Polypotton, which concerneth the elegancie that is in the diuers fallings and terminations of wordes.

So in Notation, the interpretation of the name, seemeth rather the dutie of a dictionary, then of any Logickall institution, as Argumentum ab arguendo: where againe there is no force of arguing but from the cause and the thing caused. For as for the pretty and conceipted chaunge of the word, argumentum ab arguendo, it seemeth also a Rhetoricall agnominatio: yet as not fully resolved herein, I leave them in these Annotations.

Coniugates or offspringes, be wordes diuersly deriued from one head, as Justice, Just, Justly, he dealeth Justly, therefore he is iust. The primitive word containeth the cause of his offsprings, as here Justice of iust dealing.

Aristotle commendeth this place highly 7. topic.

Canons.

If you put downe or remoue one Coniugate, you must put downe, or remoue the other: What which is giuen or taken, to or from the one: is giuen or taken, to or from the other: but here Contingency is more vsual then necessitie, therefore heere is to be taken in distinguishing the one from the other.

In 4. H. 7. 9. b. Un briefe de partitione facienda del terre et rent suit pozt. Et Keble pleade pur le rent, que le def. fait sole seisie, sans ceo que il tient pro indiuiso one le pl. et per Bryan, cest bon plé, car il n'auera part ition del chose dont il ne ad aucun parte.

Coniugates from the cause.

Terence in Hecyra Act. 3. scen. 4. Dedecet iam ira hanc, etsi merito iratus es. This anger becomes you not, although you haue cause to be angry.

From the thing caused.

Tully in his oration for his house: Primum dico, Senatoris esse boni, in Senatum venire. First I say, it is the part of a good Senator, to come into the Senate house.

From

From the subiect.

Tully to Atticus, Quia homo es, humana tibi ferenda est ratio. Because thou art a man, thou must beare such thinges as are incident to men.

From the adiunct.

Tully in his epistles: Rege interfecto, regios omnes nutus tuemur. The king being killed, we mainteine euery kingly becke and countenance.

Elenchs.

Some learned men bee lewd liuers, therefore learning is lewd: Where it should bee thus; Learned men liue lewdly, therefore they bee lewde: or thus, Learning maketh men lewd, therefore it is lewd.

Notation.

Notation or Etymologie, is the interpretation of the word. For words bee notes of thinges, and of all words either deriuatiue or compound, you may geelde some reason set from the first arguments, if the notation bee well made. It is called Originatio, quod originem verborum explicet: and Etymologia, id est, veriloquium.

Nomina sunt argumenta, non quatenus ad rem significandam referuntur, sed quatenus referuntur vel inter se mutuo, vt coniugata: vel ad suæ originis interpretationem, quæ Notatio dicitur. Sed sic non considerantur vt nomina, id est symbola, sed vt res quedam, seu vtræ quedam. *Piscator.*

Grammatica notatio exponit vocū adsignificationē: Logica verò causam explicat, cur hoc nomen huic rei sit impositū. *Piscator* putat, à nomine ad rem significatam argumentari, nihil aliud esse quàm a testimonio argumentari: vt Christus in scriptura dicitur Deus, ergo est Deus.

Canons.

To whom the interpretation of the name agreeth, to that also the name it selfe and contrarily. *Pet. sapth* Corasius, ab interpretatione ad nomen ipsum deriuatum, sicuti est à genere ad speciem, desumpta argumentatio inanis est, quod etymologia latius pateat, quam nomen ipsum. Certè reciprocatio in his obscura & incerta est. Sed à deriuato ad deriuationem argui melius potest, vt tutor est, ergo tueri debet.

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when

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When the name is false, unknowne, or ambiguous, then the reason is dangerous.

That which agreeth with the one, agreeth with the other.

Quips, taunts, jests, and conceits are often set hence.

All Platoes Cratylus is spent in the interpretation of words after this manner.

Nihil ambigi potest, ait *Cicero*, in quo, non aut res controuersiam faciat, aut verbum, in dictionibus igitur æque atq; in rebus versatur *Dialectica*. *Hottoman*.

Examples of notations. From the cause.

Billingsgate, a gate in London builded by king Belus.

From the effect.

Proident, of foreseeing future chaunces. And so in the rest.

Gospell, a good spell, or Gods spell, or saying. A Lordane signifieth an imperious idle fellow, of a lord Dane. Winchelsea, of wind, chilly, and sea: so in Latine it is called Frig-mareuentus, of frigus, mare, ventus. Little John, for that he was wonderfully tall and bigge, here the notation is from the contrary, as Lucus, quia non lucet, parca, quia non parant, Bellum, quia non bellum, & so of Ludus, Eumenides &c. Mutuum quasi meumtum.

Victima, quæ dextra cecidit victrice, vocatur.

Hostibus à domitis, hostia nomen habet.

Arist. 2. Rhet. Draconis leges, non hominis, quod erant asperæ. Dracones latæ were a Dragons lawes, for their crueltie.

Territorium dicitur, quia magistratus eius loci, intra suos fines, terrendus est, coercendi ius habent.

The Court of pipeladders incident to sayres, is called Curia pedis puluerisati, for sayres commonly are dusty. 13. E. 4. 8.

Choke in 17. E. 4. b. Conclude que null contract serra, si non ambideus les parties simul consentiant. Car contractus dicitur à con, quod est simul, & traho, so draw together.

Seruus a seruando, as well as of seruiendo, quia seruabantur capti in bello, vt postea venderentur. Manumissio, quasi è manu dimissio.

Mancipia, quasi manu capta. *Bracton lib.*

1. Fol. 4.

Dyer

Dyer semble que vn remaynder al seme pur vie apres le mort le baron, ne poet estre termé ne prise pur vne ioynture, purceq; el doit prendre estate ioyntment one son baron accordant al etymologie del parol, ioynture. 17. Elis. 50. Dyer.

Per Needham 4. E. 4. Præcipe quod reddat gist pproperment vers le tenant del terre, de terris ou tenementis, car la il poet reddere; contra del comon de pasture appendant ou in grosse; la quod permittat gist que il suffer le demandant occupier son comon &c. Socage à foca, Littleton. 26. 7.

ſearmes, quali feo; mian, qu'est vn Baron paroll, signifie pur sader ou render viltayle, car les auncient reseruatiens fueront pur le plus part in viltayles et nemy argent.

Termes of the law, pag. 967.

Aulnage, ex quo Aulnager, est le mesure et le metter per le yarde, in Latine, Vlnagium & vlnator, ab vlna. 13. & 14. Elis. 49. Dyer.

ſhyræue, of two ſaron words, Gereſa, a ruler, and Scyran, which is to cut: as it were the ruler of the ſhire. For the Realme is divided and cut, as it were, into such partes, called hereupon ſhires, and allotted to ſeuerall ſhyræues as their ſhires. In Latine hee is called Vicecomes, quali vicarius comitis, in ſeing iuſtice executed in the ſhire, and the kinges reuenues brought in ærarium. Which the Counte, Earle, Comes himſelfe ſhould, but could not by himſelfe, as attending for the moſt part vpon the king in warres, as the name beareth, Comes quali comitans principem.

Conſtable, quali kyninſtable, or kingſtable, the ſtay and hold of the king, for ſo was the Lord great Conſtable of England, who had authoritie in matters of warre within & without the Realme. Out of which office this lower Conſtableſhip was firſt ſet. 13. E. 3. Stat. Wincheſter: where two conſtables in euery Hundred were appoynted to take view of armour.

Tythingman, Headborough, Chieſepledg, Wortholder, is in a manner all one with a petite Conſtable. Although before William Conquerour it was ordeined, that all fræ bozne men ſhould caſt themſelues in companies by ten in ech company, and that euery of the ten ſhould be pledge and ſurety

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for his fellow, and amerced for his default if he escaped. Here of these companies be called Boroes or Borhes, a pledge, and Tything of ten. And because ten of these companies sometimes met for matters of weight, and ten times ten is an hundred, their generall assembly was called an hundred. The speaker and chiefe man was called the Tythingman, the Woztholder, quasi elder Boroe, and head-borohe, chiefe pledge. In these meetings among other things it was obserued, that euery of these pledges should yearely be presented by the chiefe pledge at a generall assembly, yet called the view of Frankpledge, visus Franciplegij, or the Læte court. Maister Lambard.

Lathes, Rapes, and Wapentakes, be so called of the diuisions of partes of shires. Lathe is a barne, Rape a reaping. Sir Thomas Smith thinketh them to be names of seruice, for that so many townes met in one day to reape or carry the Lords coyne into his barne, and Wapentake of taking weapons, for that in those assemblies, he that could not find surety for his good abearing, had his weapon taken from him.

But M. Lambard in legibus Edwardi regis, writeth thus.

Totus ille conuentus dicitur Wapentac, eo quod per tactum armorum suorum ad inuicem confederati sunt: of *Wepun* & *Tac*, tangere vel confirmare, quia omnes presentes cum lanceis suis tangebant hastam prefecti ipsius Wapentachij, & ita se confirmabant.

Bracton. Dicitur ideo breue, quia rem de qua agit, & intentionem petentis, paucis verbis breuiter enarrat, &c.

Maister Plowden. Fol. 357. a. Quia fines in curia nostra leuati finem litibus debent imponere & imponunt, ideo fines vocantur maxime. Sic Fol. 368. b. ex *Bracton*. Finis est extremitas vniuscuiusq; rei, hoc est, idem in quo vnaqueq; res terminatur, & ideo dicitur finalis concordia, quia imponit finem litibus.

Fol. 250. a. b. Et le noime del estaté sê tayle suit done sur le certeintie del inheritance, come Littleton dit, car il dit, que Talliare, idem est quod in certitudinem ponere. Et pur ceoq; en le done il est expresse de que corps les heyres que enheritent, issent, pur tel cause il prist, que il suit appelle tayle.

tayle. Du plusloft puit auer le nosme de cest François paroll, tayler, lequel est decôuper, car a tayler boys, est a côuper poy, et purceoy, l'estate est docked, ou cut off (car deuant il fuit sê simple, et a oze le sê est decise de ceo, et l'estate per ceo est docked, cut off, ou fait meynden) il poet bien estre dit estate tayle, cessascanoir, estate decoupe, decise, ou deminue.

Fol. 193. a. Terres venues en mains des homes de religion, sont appelle en ley de biender en moztmayne, per le resemblance (come Weston Justice dit) al tenure d'un home en extremes, que tient en son mayne queconq; que il soit, tanq; que il soit mozt. Et issint le continuance del inheritance en ceur de religion est suppose cy longement, que le meason continue. Vide Doctor & Student accordant oue ceo. pag. 172. a.

Fol. 198. b. Et le paroll, Expiration, est properment bzeathing bp, ou yelbing bp the bzeath, come le seignieur Dyer dit, et est apply al home ou auters choses animate: et est vse pur le mozt d'un home; car quant il yelde bp his bzeath, adonques il moztust, car sans son bzeath il ne poet viuer. Et comentq; il est properment vse a choses animate, que bzeathont, vncoze per vn similitude il est referre al choses inanimate. Come blomus en nostre ley, Reuerter, que est properment vse in choses animate que soy remonent: mes ascun foits nous blomus ceo in chose inanimate, come diomus, lou tenant en tayle moztust, le terre reuertera al donoꝝ. Et issint expiration vse icy per similitude del choses viuant, imphye fine queconq;. Car come signifiomus per expiration le mozt del home, et son darreine fine, queconque boy, que il vient, issint ceo paroll, expiration, adde al estate pur ans, poet apertement signifier le fine de ceo queconq;. Et issint expiration del estate pur ans, et fine del estate pur ans, est tout vn.

Court baron, of Barones, quasi virones, magnates, among the Barons called Thani. Court Lette, of the Barons word Lant, which is law, so Lant-day by corruption of speech is come to be called Law-day. Warrettoꝝ, of the French Barat, deceit: oꝝ of the Latine, Baratro, oꝝ Balatro. a vyle knaue. Apprentice of Apprendre to learne. Sessions a sedendo. Acquittance, quasi acquietantia, &c.

Indisement, of the French word Enditer, which Stephanus

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phannus, verueth from the Græke *ἐνδεκνυμι*, deferō, accuso, postulo in iudicio, and *ἐνδεκνυμι*, deferor, causam dico quod circa publica secus aliquid admiserim. Hereof is *ἐνδεκνυμι*, delatio, and *ἐνδεκνυμι*, delator, quadruplator. Maister Lambard in his Justice of peace. lib. 2. cap. 5. sayth thus. The vnderstanding or knowledge which the iustices of peace doe take by the trauaile of these enquirours is by the meane of their report, put in wryting, and commonly called an enditement, or presentment: betwene the which two wordes (howsoever they bee confounded in common speech) mee thinke that there dooth easily appeare a certaine difference. For I take a presentment to bee a mere denuntiation of the iurores themselues or of some other officer without any other information: and an enditement to be the verdict of the iurores, grounded vpon the accusation of a third person. So that a presentment is but a declaration of the Jurours, or officers without any bill offered before, and an enditement is their finding of a bill of accusation to bee true. The one seemeth to come of the Græke *ἐνδεκνυμι* I accuse, the other of the French, presenter, to offer vnto a man, or set before him.

Maister Lambard: Iust. lib. 2. cap. 16. Hereof also the fine toke first his name, of the Latine Finis, because it maketh an ende with the Prince for the imprisonment, for the offence committed, against his law, and in that respect chiefly dooth it differ from an amercement. For when the offender hath not so deeply trespassed, that thereby hee deserueth not any bodily punishment at all (as if hee bee nonsuite in an action, or doe commit any such like default) hee is sayde to fall into the kinges mercy, because hee is then mercifully to bee dealt with. And by the great charter, cap. 14. that amercement and summe of money which hee is to pay for the same, ought to bee assessed and assessed by the good and lawfull men of the neighbourhood, which also Glanvil, lib. 9. cap. 11. affirmeth to haue bene the lawe of the land long before that time, saying misericordia domini regis est, qua quis per iuramentum legalium hominum de vicineto eatenus amerciandus, ne aliquid de suo honorabili contememento amittat. But when the offence or contempt falleth out to bee so great, that

it

it asketh the imprisonment of the body it selfe, and that during the kings wil and pleasure, then is the party to redēme his liberty with some portion of money, as he can best agree with the king or his Iustices for the same, which composition is properly called his fine, or his ransome, and in Latin Redemptio, as may be plainly seene by the statute of Marlebridge. 52. H. 3. cap. 1. 2. 3. & 4. and by the statute called Ragman, and diuers other aunient statutes.

The humanitie and conscience which Christian religion doth teach, hath ingendred a certeine feare and scruple in the hartes of our men, to haue slaues and bondmen. Yet necessity on both sides, of the one to haue helpe, and the other to haue seruice, hath kept a figure or fashio thereof. So that some would not haue bondmen, villeins in grosse, as ye would say immediately bond to the person and his heires; but ascriptitios glebæ, or agris censitos, and villeins regardant and bond to the man or ground, as members belonging to the place, and following him who had the place; to the intent their seruice might be furnished, and that the country being euill, vnwholesome, and otherwise barren, should not be desolate. Others afterwards found out the wayes and meanes, that not the men, but the land should be bound, and bying with it such bondage and seruice to him that occupyeth it, as to carry the Lords dunge vnto the fieldes, to plow his ground at certeine dayes, to we, reape, come to his court, sweare faith vnto him, and in the ende to holde the land but by the copy of the Lords Court roll, and at the will of the Lord. This tenure is called also in our Law, villeine, bond, or seruice tenure. Yet, to consider moze dēpely, all land, euen that which is called most free land, hath a bondage annexed vnto it, not as naturally the lower ground must suffer and receiue the water and filth which falleth from the higher ground, nor such as Iustinian speaketh of de seruitutibus prædiorum rusticorum & urbanorum; but the lande doth bying a certeine kinde of seruitude to the possessor. For no man holdeth lande simply free in England, but he or she that holdeth the crowne of England: all others holde their land in fee, that is vpon a sayth or trust, and some seruice to another Lord of a mannor, as his

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superior, and he againe of a higher Lord, till it come to the prince and him that holdeth the crowne. So that if a man die, and it be founde that he hath lande which he holdeth, but of whom no man can tell, this is understood to be holden of the crowne, and in capite, which is much like to knights service, and oatheth vnto it three seruices, Homage, ward, and marriage: that is he shall sweare to be his man, and to be true vnto him of whome he holdeth the land. His sonne who holdeth the land after the death of his father, shall be married where it pleaseth the Lord. He that holdeth the land most freely of a temporall man (for francke almes and francke marriage hath an other cause and nature) holdeth by fealtie onely, which is, he shall sweare to be true to the Lord. So that all free land in England is holden in fee, or feda, which is as much to say, as in fide or fiducia, that is, in trust and confidence, that he shall be true to the Lord, of whome he holdeth it, pay such rents, doe such seruice, and obserue such conditions, as were annexed to the first donation. Thus all, sauing the Prince, be not veri domini, but rather Fiduciarij domini & possessores. This is a more likely interpretation then y^e which Littleton doth put down in his booke, who sayth that feodum, idem est quod hereditas, whith it doth be token in no language. This happeneth many times to them who be of great wit and learning, yet not sene in many tongues, or marke not the deduction of wordes which time doth alter. Fides in Latine, the Gothes comming into Italy, and corrupting the language, was turned first into fede and at this daye in Italy they will saye, in fide, en fede, or a la fe. And some vncunning lawyers that would make a newe barbarous Latine worde to betoken land giuen in fidem, or as the Italian sayth, in fede, or fe, made it, in feudum, or fedum. The nature of the word appeareth more euident in those which we call to fesse, feoffee or feoffees, the one be fiduciarij possessores, or fidei commissarij, the other is, dare in fiduciam, or fidei commissum, or, more Latinely, fidei committere. The like error is in Wythernam, which some interpret vetitum nauium: whereas in trueth it is in playne Dutch, and in our old Saxon language wyther

wyther nempt, alterum accipere : iterum rapere: nām is, pignoris ablatio, wyther, significth altera. But to returne this ther where we did digresse: yee see that where the persons bee free, and the bodies at full libertie and maxime ingenui, yet by annexing a condition to the land, there bee meanes to bring the owners and possessors thereof into a certaine servitude, or rather Libertinitie: that the tenantes, besides paying the rent accustomed, shall owe to the Lord a certaine sayth, duetie, trust, obedience, and, as we terme it, certaine service, as Libertus or cliens patrono: which, because it doth not consist in the persons, (for the respect in them doth not make them bonde) but in the land and occupation thereof, it is more properly expressed in calling the one tenant, the other Lord of the fee, then either Libertus or cliens can doe the one, or Patronus the other: for these wordes touch rather the persons, and the office and duetie betweene them, then the possessions, but in our cause, leaving the possession and land, all the obligation of servitude and service is gone.

So much have I collected out of sir Thomas Smith, concerning this word fee. lib. 3. cap. 8.

Paister Lambard. Inst. lib. 2. cap. 14. Arraignment seemeth to have borrowed the name out of the worde Arraye, which is the pannell or iurie, because hee that is arraigned, must be tried by them, being first called, swoyne, and tryed in order for that service.

Paister Lambard. Inst. lib. 1. cap. 13. This saving then, or delivery of a person out of prison, before hee hath satisfied the law, is uttered by three tearmes in our statutes, that is to say bailement, mainprize or manucaption, and replevine: and they bee indifferently used to expresse that suretie, which the prisoner is to finde in such a case. Nevertthelesse it seemeth that a replevine had his original of the word, pledges, which denoteth them that undertake for the partie, that hee shall abide to be iustified by law: and it is used in diuers other cases, as in replevine of cattell upon distresse, replevine of fraunchises in a quo warranto, replevine of land upon a grand cape in olde time, and replevine of the person of a man in case of villenage.

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Baylement is deriued from the French terme Bayler, and that also commeth of the Græke βαλλειν, they both signifi- yng to deliuer into hande. For he that is bayled, is taken oꝝ kept out of prison, and deliuered, as it were, into the handes of his friendes, as sureties for him. Whereof also the woꝝde Manucaptio, oꝝ Paineprise, which is all one, giueth good eui- dence, the one mentioning the deliuey, the other the recey- uing. And in this respect, the booke of the Norman customes calleth baylement, a liue prison, for that the party thereby becometh prisoner to his frændes that do undertake for him.

Maister Lambard. Iust. lib. 1. cap. 21. As in olde time eue- rie killing of a man was of the effect, called Murder, because death ensued of it (and of the Hebreu woꝝd Moth, saith Po- stellus, commeth the Latine Mors, which the Saxons our el- ders, called Morth and Morthor, as we yet sound it) so was that wilfull manner of slaying with malice prepensed, long since, and most properly, called Felony, because it was done felleo animo, in malicious heate and displeasure, and there- fore per feloniam, as the statute at Marlebridge cap. 15. doth plainly tearme it.

Maister Lambard. Iust. lib. 2. cap. 19. Riot seemeth to come of the French woꝝde Rioter, which signifieth to bꝛawle oꝝ scolde; for that commonly Riots indeede, do follow of bꝛaw- ling in woꝝd. And it is taken to be where there is any un- lawfull assembly (An unlawfull assembly is the company of thꝛæ persons oꝝ more gathered together to do such an unlaw- full act, although they do it not indeede) of men gathered to- gether, and going about to commit an unlawful act, and they do execute it indeede, as to beate a man, oꝝ to enter vppon a possession forcibly, oꝝ such like.

Our Riot is the same which the Germaines yet call Rot, meaning a band oꝝ great company of men gathered together, and going about to execute, oꝝ executing indeede any Riot oꝝ unlawfull act. And, sayth Marrow, it is saide properly of the multitude that assemble themselues in such disorderly sorte for their common quarrell: as if the inhabitants of a towne- ship do assemble to pull downe a hedge oꝝ pale, to haue their common, where they ought to haue none. to beate a man that hath

hath done them some publike offence or displeasure.

¶ Lambard, iust. lib. 1. cap. 17. The wordes Affray and Assault be indifferently used of most men, and that in our booke cases, but yet in myne opinion, there wanteth not a iust difference betwene them. For Affray, is derogued of the french, Effrayer, which signifieth, to terrifie, or bring feare, and is the moze hainous trespasse: for the Law understandeth it to be a common wrong, and therefore it is enquirable and punishable in the turne of the Shirisfe, and in a late. 4. H. 6. 10. and 8. E. 4. 5. Otherwise it is of an assault, as it seemeth by those very booke. Yet may an affray be without word or blow giuen: as if a man shall shew himselfe furnished with armour or weapon, which is not usually woene and bozne, it wil strike a feare into others that be not armed, as hee is, and therefore both the statute of Northampton. 2. E. 3. cap. 3. made against the wearing of armour and weapon, and the writ thereupon grounded, doe speake of it, by the wordes, Effray del pais, and, in terrorem populi.

¶ But an Assault, as it is fetched from another fountayne, namely from the Latine Assaultus, which denoteth a leaping or flying vpon a man: so can it not be performed without the offer of some hurtfull blow, or at the least of some fearfull speech. And therefore to rebuke a collector with fowle words, so that hee departed for feare without doing his office, was taken for an assault. 27. lib. Ass. Pl. 11. And to strike at a man although hee were neither hurt, nor hit with the blowe, was adiudged an assault. 22. lib. ass. pl. 60. For this assault doth not alwayes necessarily imply a hitting: and therefore in trespasse of assault and battery, a man may be founde guilty of the assault, and yet excused of the battery. 40. E. 3. 4. and 45. E. 3. 24.

¶ Treatises are called of the word Extracta, because they be short notes or memorials, extracted or drawne out of the Records by the Clarke of the peace, and by him indented and deliuered sunderly to the Shirisfe, and to the barons of the Eschequer, bearing this, or the like title: Extracta finium, amerciametorum forisfactorum, ad generalem sessionem pacis tentam apud Maydstone &c. coram &c. For the whole
p. iij. so; me;

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forme of the making hereof, there is full direction giuen to all clerkes of estates, by the statute. 7. H. 4. cap. 3. whereunto I referre them.

I haue purposely inserted a number of notations, for that I would make it plain, how the notion of the thing is oftentimes expressed by the notation of the word, contrary to the preiudicate opinion of some sely penmen, and illogically lawyers, who thinke it a fruitles poynt of superfluous curiosity, to vnderstand the words of a mans owne profession.

Elenchs.

A Woman is a woe man, because shee woꝛketh a man woe. Agreementum, quasi aggregatio mentium. But all the sport is to heare the wonkith notations of wordes both Graeke and Latine, whereof they knew neither sence nor signification, as Diabolus, of Dia, that is two (say they) and bolus, which signifieth a moꝛsell, because the deuill maketh but two moꝛsels of a man, one of the soule, and another of the body. Hypocrisis, of ὑπὸ, which is oner, and χρυσός, gold; because hypocrites bee cloaked with a golden sheu ourcast: whereas the one commeth of ἀνὰ καὶ μέν, to cast in accusations: the other of ὑποκρίνομαι, to dissemble.

The 13. Chapter.

Of Distribution.



Distribution and Definition there is a most necessary reciprocation or conuersion: in distribution, of all the parts with the whole: in definition, of the thing defined, with the definition it selfe.

A distribution is, when the whole is distributed into his partes. And as the distinguishing of the whole into his parts, is called Distribution: so the collection or gathering together of all the parts to make by the whole, is named Induction.

Distribution is made of arguments which are agreeable to the whole, but disagreeable among themselves: so that it is so much the moꝛe perfect distribution, by how much the partes

partes doe more agré with the whole; and disagré among themselves.

Annotations.

Reciprocatation :] In other arguments not necessary. For it is not in all causes, but onely betwene the forme and the thing formed: not in all subiects, but betwene the subiect and his proper adiunct, not in all contraries, but onely in relatives. Whereas in distribution and definition, the reciprocatation is perpetuall.

Such is the excellency of distribution and definition, that almost they alone doe suffice for the absolute putting downe of any art. Wherefore Socrates in Phædro Platonis sayth, that if he finde any man who can cunningly diuide, he will follow his steps, and admire him for a God.

[Induction :] Wherefore as the one is an argument. and no argumentation, so also is the other. Nam Inductio arguit distributum sine totum, sine vlla dispositione tertij argumenti.

[More agree with the whole :] For in distribution of the subiect and adiunct, the partes and the whole doe not essentially agré, as we shall see hereafter. Wherefore by this rule the best diuision is from the cause and effect. Again, the more that the partes doe disagré among themselves, the better is the diuision. By which it appereth that the best diuision must be of partes that be most repugnant, which can bee but two, therefore Dichotomia is most excellent, a diuision consisting onely of two partes. For, as among agreeable arguments the cause and thing caused doe best agré, so of all disagreeable; the repugnant be most disagreeable. But as in the most generall and subalternall, Dichotomia must bee obserued, so in the most speciall it is not to be exacted.

Elenchs.

Plato in Phædro compareth inartificial diuiders to bungling Cookes, who in stead of artificiall caruing, vse rudely to bryake and dismember thinges. This is a lamentable want in our law, I meane exact diuisions, in place whereof wee haue nothing els, but cyther A B C methode without coherence, or primo notandum, 2. not. 3. not. 4. not, & so on stil till

The first Booke.

hæ come to decimotertiū notandum, like dunses in scholes, and selly bablers in pulpits : that a man were farre better make a new speech, than remember their waste and confused Schediasmata. Lyttleton did what hæ could in this behalfe, although it were but litle, as in those his distinctions, Estate taile is generall or speciall : Dower is per le comen ley, per custum, ad ostium ecclesiæ, ex assensu patris, de la pluis beale. Willen per prescription ou confession : Item in gros ou regardant. Rent est rent seruice, charge, seck. Conditions in fap, en ley. Garrantie, lineall, collaterall, per disseisin, &c.

Well then, one generall Elench in a distribution, is the not bñg of it, when the matter requireth. Another is, when we vse it, but inartificially, when any thing eyther wanteth in it, or is superfluous. Want, as in that which Virgil hath 5. Aeneid. where hæ propoundeth in his distribution onely foure kindes of exercises, but afterwards expoundeth fīue.

Prima citæ Teucris ponam certamina classis,
Quiq; pedum cursu valet, & qui viribus audax,
Aut iaculo incedit melior, leuibusq; sagittis,
Seu crudo fidit pugnam committere cestu,
Cuncti adsint, meritaq; expectent præmia palma,
Ore fauete omnes, & cingite tempora ramis.

For besides these foure, folloiweth the fift, not named here in the distribution, and that is the race of horses.

For superfluitie, that shall serue which Tully hath in his second booke De finibus, where hæ speaketh thus of Epicurus.

Quomodo autem philosophus loquitur tria esse genera cupiditatum? Naturales & necessarias, naturales & non necessarias, nec naturales nec necessarias. Primum diuisit inleganter: duo enim genera quæ erant, fecit tria: hoc est, non diuidere, sed frangere rem. Qui si diceret, Cupiditatum duo esse genera, naturales & inanes: naturalium quoq; duo, necessarias & non necessarias, confecta res esset. Vitiosum est enim in diuidendo, partem in genere numerare,

The

The 14. Chapter.
Of Distribution of Causes.

Distribution is made eyther of argumentes fully agréable, or agréable in parte: fully as first of the cause.

The distribution made of the cause is, when the partes are the causes of the whole. And this is called partition, when the whole integrall is diuided into his members.

Hobbinoll consulteth Diggon Dauy in September, promising by a distribution of England into her parts, no Wolues to bee in England.

Eye on thee Diggon, and all thy fowle leasing,
Well is knowne, that sith the Saxon king,
Never was Woolfe seene, many nor some,
Nor in all Kent nor in Christendome.

For most parte of England being Christian in Ethelberts time, Kent onely continued in Paganisme, and was there fore counted no parte of English Christendome. So that partition is vsed both in a distinct propounding of partes, where any long matter is to be handled of Poets, Orators, Preachers, Lawyers, &c. and also syllogistically in arguing eyther the whole by the partes, or the parts by the whole.

Maister Plowden. Fol. 170. a. Terre ne poet perteigner al messuage. Car messuage consist de deux choses, del terre et structure, et terre ne poet perteigner al terre, &c.

Fol. 151. a. Reuerſion del terre consist des deux choses del terre, et del residue ou remnaunt estate. Come Maner del seruices et demesne; stagnum del terre et calwe; Piscaria del calwe et terre &c.

Annotations.

E Causis singulis distributio esse potest. Ex efficiente, ut ius est naturale, ciuile, gentium; ex materia: vestes sunt lanex, lineæ, &c. Ex forma, lanx est, quadrata, rotunda, &c. Ex fine, vestes sunt induendi causa, vel præcingendi, insternendi, &c.

D. ij.

Fol

The first Booke.

For the Elenchs touching distribution of the integrall, set
before in the tractate of the integrall.

The 15. Chapter.

Of distribution of Effects,

The distributiō of the thing caused or of the effects
is, whose parts are effects of the whole, and this is
properly called Diuision, when as the generall
or vniuersall is diuided into his specials. And as
the first called Partition; so this called diuision is handeled
as well in soyme of Distribution, as in arguing the one by
the other.

Maister Plowden, Fol. 132. b. 31 n'est rente : car si serroit
rent, adonq; il coupent de necessitie d'estre rent charge, rent
seck, ou rent seruice, car ne sont plusors rents que ceur trois,
et rent charge il n'est my, car null distres est done, nec aucun
terre charge oue seo, nec seck ou seruice, quia n'est issant hoys
d'aucun terre, Ergo n'est rent.

Elenchs,

Althufius thus diuideth vnlawfull pleasures : into stu-
prum and adulterium. Stuprum inter personas solutas, and is
voluntarium or violentum. Voluntarium fit ab extraneis, aut
à consanguineis, vt incestus. Ab extraneis, naturaliter, vel
contrà naturam; naturaliter à mare & femina. Contra natu-
ram, à mare cum mare, à femina cum femina, aut cum bestiis.
Adulterium est cum alterius coniuge vel marito. The whole
constitution of this diuision is erroneous. For most of the
things which are contepned vnder stuprum, may as wel, and
do as well belong vnto adulterium. Fenners diuision there-
fore is farre better : where hee sayth they be

Præter naturam, or secundum naturam : præter naturam
est vel confusio tum specierum, tum sexuum, vel incestus. Spe-
cierum, cum bestiæ verè vel spiritus specie hominibus miscen-
tur voluptatis causa; sexuum, confusio est, cum mares mari-
bus, feminae feminis miscentur. Incestus sunt, cum propinqui
carne miscentur etiam in coniugio,

Secundum

Secundum naturam est scortatio vel adulterium : Scortatio est, cum matrimonio soluti illegitimè miscentur. Adulterium, cum altera persona saltem sit desponsata. Nam si vtraq; sit desponsata, grauius est adulterium.

It is all one whether the generall be diuided into his specials, or into the formes of the specials, as Animal is eys ther rationale or irrationale, where the specials be as significantly put downe as if they were expressed by their owne proper names, man and beast.

The 16. Chapter.

Of Distribution of argumentes after a certaine manner agreeable.



The second kinde of Distribution is made of arguments agreeable after a certaine manner, as of subiects and adiuncts.

The Distribution made of the subiect is, when the partes are set from the subiect.

Hobbinoll in his song of Elysa, diuideth her beauty being the adiunct, into her seuerall subiects, as, face, eye, cheeke, &c.

Tell mee, haue yee seene her angelike face
like *phæbe* fayre?

Her heauenly haniour, her princely grace
can you well compare?

The red Rose medled with the white yfeare,
In eyther cheeke depaynten liuely cheare:

Her modest eye,

Her maiestie,

Where haue you seene the like but there?

¶ Plowden Fol. 279. b. Et quant a ceo, troyz y sont (come Walthe dit) que ount a intromitter oue les biens del mort, cessassauoir, l'executoz, le ordinaire, et les administratoz &c.

The Distribution of the adiunct is, when the partes are set from the adiuncts.

Diggon in September.

For either the shepheards bene idle and still,
And led of their sheepe what way they will,

Quij.

Or

The first Booke.

Or they bene false or full of couetise:
And casten to compasse many wrong emprise:
But the more bene fraught with fraud and spite,
Ne in God nor goodnes taken delite.

Spaister Plowden Fol. 328. *Spynes de plumbé sont fertile,
ou sterile, &c.*

Annotations.

Pliscator would haue some diuisions to be of thinges, as those that Ramus hath put downe: and some of wordes, to distinguishing the diuers acceptions of ambiguous wordes, as Littleton pag. 51. in this word *Assise*, which he saith is equiuocum, &c. But that belongeth rather to a Dictionary-maker, then a teacher of Logike, saith one. And, indeede, as another answereth, wordes be diuided together with the thinges: as Liberty and freedome is eyther bodily or spirituall: where, as well the thing, as the word is diuided.

All Logike is generall, and applyable as well to thinges imagined, as things that be extant in truth: and therefore to wordes also, as wordes haue causes, effectes, subiectes, adiuncts, and other arguments to be considered. *Logicus, saith Hottoman, in istam vocum inter se rationem, habitum, respectum, affectionem: Grammaticus tantum accidentia, & popularis sermonis in ijs iungendis consuetudinem exquirat, &c.*

With these two last kindes of distribution be sayde to be made of argumentes agreeable after a certeine manner; we are to vnderstand, that neyther the whole here, is of the essence of the partes, nor the partes of the nature of the whole: so that this is no true distribution indeed, but rather an imagined distinction. And these be partes, not of any whole, but rather of order, distinction, and particular rehearfall or enumeration.

Canons.

Therefore if you affirme or deny, either the adiunct which is the whole, or the subiects which be the partes, you may contingently affirme or deny the one or the other.

And so in the other of the adiunct, the adiunctes as partes being affirmed, the subiect as whole may be also affirmed.

Distrib. in Sub.

Stamford

Stamford. prerog. reg. cap. 1. For which cause the lawes doe attribute vnto him (the king) all honour, dignitie, prerogative and preheminnence, which prerogative doth not onely extend to his owne person, but also to all other his possessions, goods, and cattels. As, that his person shall bee subiect to no mans suite, his possessions cannot bee taken from him by any violence or wrongfull disseisin: his goods and cattels are vnder no tribute, toll, or custome, nor otherwise distreignable.

Elenchs.

If a false adiunct bee diuided into false subiects: as arguments bee eyther affirmatiue or negatiue. Or if a false subiect bee diuided into vnfit adiuncts, as spirits some be white, some blacke.

The 17. Chapter.

Of a Definition.



Definition is that which declareth what a thing is: it consisteth on two parts, the generall and the difference. Whereof the first is common to the thing defined, and all his other fellow specials, but the difference is proper onely to the thing defined, and distinguisheth it from all other his fellow specials.

A definition is perfect or vnperfect; whereof the first, for the excellency, is called definition by the common name: the second is tearmed a description, by a moze speciall tytle or word.

A perfect description is that, whose difference is set from the formall cause of the thing defined, as, A man is a sensible creature endued with reason, where, sensible creature is the generall, and endued with reason, is the difference: so that whatsoeuer is in a definition placed after the generall, that I call in this place the difference.

By an argument from the definition, Piers in May proueth hyrelinges, to bee no shepheardes, because the true definition of a shepheard agroeth not with them,

Q. iiii.

Thilke

The first Booke.

Thilke same bene shepheards for the Devils stead,
That playen whilest their flockes be vnsead.
Where after followeth a definition (a cuntry definition)
of an hirelyng, by application whereof vnto them, hee proueth
them to bee hyrelings.

Well is it seene their sheepe be not their owne,
That letten them run at randome alone :
But they bene hyred, for little pay,
Of others that caren as little as they,
What fallen the flocke, so they han the fleece,
And get all the gaine paying but a peece.

Maister Plowden Fol. 54. b. Car couyn, solong le vray
definition de ceo, est vn secrete assent, determine en les
coeurs de deux ou plusors homes, al pzeiudice d'auter. Come
si tenant pur vie voyle secretement conspirer oue vn auter,
que l'auter recouera en pzeiudice de cestuy en reuersion. Car
per ceo son reuersion serra toll. Et ceo conspiracy est et poet
estre terme, et dit couyne; car tous les parts del couyne
sont la perimplies. Car la est vnitie de leur deux coeurs; et
est secretement sayt, et est en pzeiudice del tierce person, et
estint perfect couyne sans mayheme ou blemish.

Fol. 261. a. Et quant al qualite del offence, quel le offend
doz icy ad sayt, il dit, que est in degre del murder, et nemy de
manslaughter. Car manslaughter est le occider del home selo
nousement sans malice pzevence. Des murder est occider
del home sur malice pzevence. Et icy le occider de luy mesme,
sunt pzevence et resolu en la ment deuant le act sayt. Et
auri il agreé in auter point oue l'auncient definition del mur
der, que sunt tiel, Murdrum est occulta hominis occisio, nullo
pzeiente, nullo sciente. Mint icy sir James Hales secrete
ment surround luy mesme, ne auterment il serroit stay ou in
terrupt de ceo sayte.

Fol. 359. a. Le seignior Dyer define clayme en tiel ma
ner; Clayme est challenge per aucun home del proprietie ou
ownership del chose que il ne ad en possession, mes que est
deteigne de luy per toyt.

Annotations.

Annotations.

Definition is not set among the last, as though it were one of the worst, but because it is made of those other going before, and therefore cannot be conceived without them.

Here we teach what a definition is, and how to make it, therefore it cometh after the other argumentes of which it is made: but in the tractate of Methode, we shew how and where to place a definition already made; and therefore according to her excellency, we allow her the first place.

Diuisio est quasi sectio rei in partes: Definitio contra, quasi collectio & comprehensio partium ad rem explicandam.

Theoall hath taken some more paines in defining and diuiding a writ, than eyther the authoꝝ of the Register, of old Natura breuium, oꝝ Fitzherbert. Theoalls definition is already put downe elsewhere.

Tenant in fee simple est celuy que ad terres ou tenements a tener a luy, et a ses heyrés a tous iours. Littleton pag. 1. *Disseisin est vn tortious ousting del franchtenant per entree nyent congeable.* 62. a. Plowden.

Nous voulons que prisonne soyt fenne place per nous bounde dedeins certeyne bounds assignes pur le garde del corpps del home. Brytton. 17. *Appele est pleynte de home fait sur auter, ou esq; purpose de luy atterndre de felony par mots a ceo ordeynes.* Brytton, when hee had thus defined matrimony, Fol. 246. *Patrimony est assembly de home et de feme, a lour deur assents par ioynture de saynt eglise, pur demorer ensemble ausi come vn chayze a tous lour vies, sans espoyze de partir: afterwardes, Fol. 252. hee pꝛoueth that if a man haue two wiues, the second is not feme de iure by this definition, thus; et deur ne poyt il my auer a vne fois, sicome apiert per le definition de matrimony, ou est dit, que matrimony est assembly de home et de feme, et neiny de home et femes, ou feme et homes, mes singulièrement feme et home.* It is shame that Brytton were not newly printed, and pittie that hee and Bracton hee no more reade: for though the Law be much altered since their time, yet there is no essentiall part of the Law, which hee and Bracton doe not define, diuide, and handle accordingly. So that by discretion a man shall by

The first Booke.

one chapter of Brytton more plainly perceiue the nature of Garde, villen, &c. then by turning and tossing of sorty vncohererit cases in yeare-bookes, which doe not expound the nature of, Gard, villen, &c. but are spent in the determination of some obscure poynt touching Gard, villen, &c. and doe presuppose a generall notice of them, before wee come to the examination of particular difficulties discussed in yeare-bookes. And indeed it seemeth a preposterous thing to tangle of more conceiptes in Essayne, Protection, &c. not knowing what an Essayne is, what a Protection meaneth. But as in Vniuersities, so in Innes of Court, the greedy desire of a superficial shew in vnnecessary trybles maketh vs want the true substance: they soz hast to get a prebend by a degree, make light worke and run ouer two or thre Epitomes; and wee by a mote-booke and a Brookes abridgement climbe to the barre, & bar our selues vtterly from the substance of the comon Law. But omnis definitio in iure ciuili periculosa est, and so in the common Law. Thats true, but *¶* Theloall, as also Freigius, who is of the same minde, mistoke the word; soz I thinke Vlpian, by this word, Definitio, meaned not the Logical definition which expoundeth the nature of a thing, but breuem & circumscriptam quandam iuris sententiam, quam iuris-consulti regulam, Dialectici *Thesin*, seu positionem; Medici *Aphorismum* nominant. And yet, bee it as it may bee, I doubt not but who so attempteth to make Logically definitions in the Law, shall finde it somewhat dangerous, because it is very difficult.

Cambiparticipes sunt, qui per se vel per alios placita mouent, vel mouere faciunt, & ea suis sumptibus prosequuntur, ad cambipartem, vel pro parte lucri habenda. Stat. an. 33. E. 1.

Tostum est ou meason ad este, et ore est nul mesuage, mes le site del meason apiert. *Curtilagium* est vn soyle ou garden apperteignant a vne mease, quasi curta pecia terra. Fayrfax. 21. E. 4. 52.

Glanuil, lib. 9. Fol. 7. Dicitur autem purprestura, vel porprestura proprie quando aliquid supra dominum regem iniuste occupatur, vt in dominicis regis, vel in vijs publicis obstruistis, vel in aquis publicis transuersis a recto cursu, vel quando

quando aliquis in ciuitate super regiam plateam aliquid edificando occupauerit, &c.

24. H. 7. 12. Reade. *Disparition properment est lon bn chose est agrée destre bzay, come nosme del ville ou del pe rson, et puis en mesme cel plée, cel chose est autrement nosme, Come ou teo sue nosme en sozmedome R. Reade, a que teo face des fence, et en mon barre teo moy entitle per le nosme del T. R. ceo serra amend, car serra entend que le clerke fuit ignorant que ceo escript iustint. Mes si en bziese vers moy per le nosme de R. teo dy, vous aues cy le dit T. ceo nest misparison amendable.*

In stead of geuing a true definition or explication of the nature & essence of any thing in our lawe, these singlesowld Lawyers and golden Asses aunswere, *as ev tu ito*: put downe a particular case, as if I shoulde aske what is a man: A man, say they, is such a thing as Willy the millman: Robin the pannierman, &c. Where a generall definition beeing put downe, woulde giue a speciall light to the matter in hand.

Accurata definitione vtendum est in artibus, & cum doctis hominibus: in vulgus autem, & imperitorum sensus, descriptiones aptiores sunt.

Herietum est quædam præstatio, vbi tenens liber vel seruus in morte sua dominum suum respicit de meliori auerio suo, vel de secundo meliori: quæ quidem præstatio magis de gratia quam de iure fit. Fleta: lib. 4. cap. 3. Elif. 58. Dyer.

Collegium est societas plurium corporum inter se distantium: & dicitur collegium proprie, cum simul habitant, quoniam simul colliguntur, & collegium constituitur in ecclesia vel per priuilegium concessum a superiori post fundatam ecclesiam, vel si a principio fuit ordinatum, quod ecclesia esset collegiata, vel si longo tempore vixerint collegialiter & sunt in quasi possessione collegij. Item ecclesia potest fieri collegiata cum consensu episcopi & patroni. 9. & 10. Elif. 13. Dyer.

If some of these examples by mee collected seeme rather good descriptions, then persite definitions: thou that so thinkest, must thinke this also, that I could finde no better.

Therefore Si quid nouisti rectius istis,

Candidus imperti: si non, his vtere mecum,

R. ij.

3

The first Booke.

A definition is called of the Grecians, *ὁρίσιν*, *ὁρίσιν*, *ὁρίσιν* *ὁρίσιν* *ὁρίσιν*. Which is a translated word from boundes and limittes of grounde. For as they hedge in and include the ground: so both a definition limite and circumscribe, or, as it were binde in the nature of that which is defined.

And that also is the naturall signification of this worde which the Latinistes vse, *finire*, or *definire*: from whence come *finitio*, and *definitio*: Which we now vse as an English word. *Finis* is an end, *finire*, and *definire*, signifie to limite and end, or circumscribe one from an other, that so it may be knowne from other. The chiefe vse then of a definition is, to shew and make playne: yet an argument prouing may be set both from the definition to the thing defined, and from this to that, negatiuely, and affirmatiuely, and so it is in descriptions.

[The difference:] This difference is sometimes set from the very internall forme and essentiall cause of the thing defined: which is best, but hard to be found: and therefore, instead thereof, sometimes the ende is vsed, sometimes the proper adiunct, sometimes many adiunctes together, sometimes the subiect.

One Relatiue doth define an other.

Canons.

If the definition be, then the thing defined must be, and contrarily: but if not that, then neyther this, and contrarily.

To whatsoeuer, the definition eyther may or may not be applied, to the same also the thing defined eyther may, or may not be attributed, and contrarily.

Whatsoeuer agreeth, or not agreeth with the definition, the same thing eyther will agre or not agre with the thing defined and contrarily.

In genere asciscendo satis erit proximum ponere, neq; altius a capite repetere. Nam qui proximum genus possuit, is etiam superiora omnia posuisse intelligitur. Quandoquidem (ait *Aristoteles* in topicis) in inferioribus ea quæ supra sunt intelliguntur.

Hottoman.

Spaister Lambert; Iust. lib. 1. ca. 1. Iustices of the peace be

be Justices of record appointed by the Quene to be iustices within certaine limites : for the conseruation of the peace, and for the execution of sundrie thinges comprehended in their commission, and in diuers lawes committed vnto them.

The 18. Chapter.
Of a Discription.



An imperfect definition or description, is that whose difference is set elsewhere then from the for-
mall cause, and it is sometimes bryefe, sometimes
more largely amplified.

Thenot in february describeth the oake, thus,

There grew an aged tree on the greene,
A goodly oake sometime had it beene,
With armes full strong and largely displayde,
But of their leaues they were disarayde :
The body byg, and mightily pyght,
Thoroughly rooted and of wondrous hyght :
Whilom had bene the king of the field,
And muchel mast to the husband did yeeld,
And with his nuts larded many swyne,
But now the gray mosse marred his ryne.
His bared boughs were beate with stormes,
His top was balde and wasted with wormes,
His honour decayde, his braunches sere, &c.

In May Piers describeth the kid.

She set her yongling before her knee
That was both fresh and louely to see,
And full of fauour as Kid mought bee.
His vellet head began to shoot out,
And his wreathed hornes began to sprout.
The blossoms of lust to bud did begyn,
And spring foorth rankly vnder his chyn. &c.

Where afterwards followeth the description of the counter-
fayt pedler, the for. by adiuncts, effects, &c.

It was not long after she was gone,

R.iiij.

But.

The first Booke.

But the false fox came to the doore anone,
Not as a Foxe, for then he had bee kend,
But as a poore pedler he did wend,
Bearing a trulle of tryfles at his backe,
As bels, and babes, and glasse in his packe,
A biggen he had got about his brayne,
For in his headpeece he felt a sore payne.
His hinder heele was wrapt in a clowte,
For with great colde he had got the gowte.
There at the doore he cast me downe his packe,
And layd him downe, and groand, alacke, alacke.
Ah deare Lord, and sweet saint Charitee,
That some good body would once pity me. &c.

*Paister Plowden Fol. 273. a. Terminus, si sit referre al
temps, est le fine del ceo, come Weston dit: et poest estre re-
ferre al lieu, come le seignior Dyer dit, come terminus loci;
et adonques il est prise come pzeinct ou lymite del vn lieu,
come bounde est inter terres de diuers homes, et issint ad
mesme le sentence, come certeintie ad, soit il referre al tps,
ou lieu: et terminus loci poost estre dit certeintie en lieu: ter-
minus temporis est certeintie en temps.*

*Fol. 88. a. Et moy semble que pzetensd droyt ou title nest
forsque en vne case, et ceo est l'ou vn est en possession de ter-
res, ou tenements, et auter que est hors del possession, clayme
ceo ou sue pur ceo; ceo est pzetensd droyt ou tyle.*

*Fol. 368. b. Description de peace per Catlyn, et Fol. 195. a.
Description del searime per Browne et Dyer &c. Ibidem,
Le Comen ley, n'est que comen ble.*

Annotations.

As breuety is commended in a perfect definition, so copious
amplification is fittest for a description: yet so as swell-
ling superfluitie be alwayes auoyded.

Description is called of the Gracians *πρόλογος, τῆς, σκιαγραφίας, ὑπογραφίας*. Some call it in Latine, Allusio: it
hath of diuers men, vppon sundry occasions diuers names.
Sometimes *ὁρίσματος*, as it were a certeine delineation: if
any persō be described, they call it Protopographia, if a place,
Topographia.

Topographia, if a nation, Chorographia, if the earth Geographia, if the water, hydrographia, if the wind, Anemographia, if a tree, Dendographia, if the time, Chronographia, &c.

Aristoteles ait, neq; vnam duarū rerum, neq; vnius rei duas definitiones esse posse. ὅτε γὰρ ἓνα δυνάμιν, ὅτε δύο τοῖς αὐτοῖς ἔσας δυνάμιν εἶναι. Nam cum vnius rei vna natura sit, quæ definitione explicatur, rectissimè à *Galeno* scriptum est, ἕναι πρὸς πολλὰς ἀρίστας ποιῆν ἐνός περὶ ἑκάστου ἐν ταῖς φωναῖς μόνον, ἐν ἐν τοῖς νοήμασι διαφέροντας. Licet plures vnius rei definitiones conficere vocibus tantum differentes, non rationibus.

Quod *Zeno* de Dialectica & Rhetorica dixit, illam pugno, hanc palmæ similem esse, idem de definitione dici & definito potest, idq; multo magis accommodatè. Re namq; sunt eadem, sed alterum euolutum, alterum inuolutum.

M. Lambard. Iust. lib. 1. cap. 16. *Budæus* in his *Græke Commentaries* is of the opinion, that the French worde Arrest, which with them signifieth a decreë or iudgement of a court, toke beginning of the Græke ἀρεσόν, that is Placitum, and, as we might say, the pleasure or will of a Court. And albeit that it were not out of our way, to thinke that it is called Arrest, because it stayeth, or resteth the party, yet I beleæue rather that we receiued the name from the Norman lawes, because we vse it in the same sence with them: for commonly with vs, an Arrest is taken for the execution of the commaundement of some Court, or of some officer in Justice. But howsoeuer the name began, An arrest is a certayne restraint of a mans person, depriuing it of his owne will and liberty, and binding it to become obedient to the will of the lawe; and it may be called the beginning of imprisonment. The precepts and writs of the high courtes of lawe, doe vse to expresse it by two sundry wordes, as, Capias, and Attachias, which signifie to take or catch holde of a man. But this our precept noteth it by the wordes duci facias, cause him to be conueyed &c. for that the officer hath after a sort, taken him before, in that he commeth to him, and requireth him to goe to some iustice of the peace.

Ibidem. Suretie of the peace is an acknowledging of a bond to the pynce, taken by a competent iudge of recoorde for

The first Booke.

the keeping of the peace, and it is called suretie of the word
securitas, because the partie that was in feare, is thereby the
more quiet and secure.

Idem. Lib. 1. cap. 13. The Latine men vse, Recordor,
when they will signifie, to keepe in minde, or to remember,
in which sence the poet sayd:

Si ritè audita recordor.

And after the same sence also doth our lawe vse it: For
Recordes bee nothing els but memorials or monumentes of
things done befoze Judges that haue credite in that behalf.

One may affirme a thing, and another may deny it, but
if a Record once say the word, no man shall be receaued to
auerre or speake against it. For otherwise there would neuer
bee any ende of controuerfies.

Stamford. lib. 2. cap. 38. Sanctuary est vn lieu priuilege
per le prince, ou soneraigne gonerneur, pur le safeguard de
vie de home qui est offédour. et est souldue sur la ley de mercy,
et sur le grand reuerence, honoz et deuotion, que le prince ad
al lieu, deins quel il granta quel priuiledge, &c. An issue is
sayd to bee status causæ, it is called Issue, of an issue in some
vessell, whence onely the water is boyded &c.

Elenchs of all definitions.

First, if it want where it should bee: When if it bee, but
bee false: or bee obscure, as that of the snayle, where the defi-
nition is more obscure than the thing defined, and that in
Pacuius, Testudo est quadrupes tardigrada, agrestis, humilis,
aspera, capite breui, ceruice anguina, aspectu truci, cuiuscerata
inanimata, cum animali sono.

Arist. in 6. Top. compareth an obscure definitiõ to the pic-
tures of old bungling paynters, *ἡ ἀρχαίων ζωγράφων*; which
had the names of the things paynted, put ouer the pictures, or
else they would neuer haue bene taken to bee the pictures of
such things.

Homo est animal bipes, implume, quod erectum ingredi-
tur, q. Plato. And the next day after comes in Diogenes
with a cocke pluckt cleane without feathers, and throwing
him into Plato his schole, sayd, Ecce hominem *Platonicum*, lo
here is Platoes tall man, a two-footed creature, without fea-
thers, going vpright.

Agayne

Agayne, if it eyther want, or haue too much.

In an imperfect definition, the conuersion and reciproca-
tion of it with the thing so defined is not precisely to be exa-
cted : but in the other, it is necessarily required, the want
whereof is an infallible token of a sophisticall definition.

The 18. Chapter.

Of the argument borrowed.



If we haue sufficiently discoursed of the na-
ture of inherent arguments, it now remaineth
to speake of the borrowed elsewhere, which is
properly called a testimony or witnesse, and is
only fit for proſe or confirmation. First, a testi-
mony is either a famous sentence, as prouerbs, &c. or a law.
A law is eyther naturall, or written.

Secondly a testimonie is either simply propounded, as
an edict, &c. or written before.

Thirdly, a testimony is either with oath, or without oath.
So much of the common affections of a testimonie : the spe-
cials follow.

A testimonie is either of God, or of man. Of God eyther
immediately, or by prophetes, Angels, &c. of this kinde be
diuinations, &c.

That of man, argueth not of it selfe, but by the vertue
of some inherent argument : and in exquisite searching out
of the truth of any thing, is but of small force, but in ciuill as-
sayes it much preuaileth, when the testimony of any man
is belæued, by reason of his vertue, wisdom, &c. which indeed
be inherent arguments.

In May, the ffor would proue him selfe kynne to the Kid,
because his grandsyre tolde him so.

And if that my Grandfyr tolde me be true,

Siker I am very sib to you.

Morrell in July.

Besides (as holy fathers sayne)
there is a hilly place,

S.

Where

The first Booke.

Where *Titan* riseth from the mayne,
to ren his dayly race.
And *Thomalyn* in *July* vseth a prouerbe to censure *Morrell*,
the commender of hils.

Ah, God shield man, that I should clymbe,
and learne to looke aloft.
This reede is rise, that oftentime
great clymbers fall vnsofte. And agayne,
To kerke the nar, from God more far,
hath beene an olde sayd saw,
And he that strues to touch a star,
oft stumbles at a straw.

Hans testimony is eyther of one man, or of many. That
of one, is eyther obligation or confession. No obligation be
referred pledges or sureties. So in August the two shepe-
heards, *Perigot* and *Willy*, for want of better arguments to
proue their skill in singing, lay downe wagers, the one a
cuppe, the other a spotted lambe. This is commonly called
the soles argument.

Willy. Then loe, *Perigot*, the pledge which I plight,
A mazer ywrought of the maple warre,
Wherein is enchased many a faire sight
Of Beares and Tygers, that maken fierce warre,
And ouer them spread a goodly wyld vyne,
Entrayled with a wanton yuy twyne.
Thereby is a lambe in the wolues iawes,
But see how fast renneth the shepheards swayne,
To saue the innocent from the beasts pawes,
And here with his sheepehooke hath him slayne.
Tell mee, such a cup hast thou euer seene?
Well mought it befeeme any haruest queene.

Perigot. Thereto will I pawne yonder spotted lam,
Of all my flocke there nis syke another,
For I brought him vp without the dam,
But *Colyn Clowt* raste me of his brother;
That he purchaste of mee in the playne field,
Sore against my will was I forst to yelde.

I remember *Diggon* in September sweareth by his
soule,

soule, to giue credite to his assertion, which I should haue put before.

They say they com to heauen the nigher way,
But by my soule I dare vnder say,
They neuer set foot in that same troade,
But balke the right way and strayen abroad.

Maister Plowden Fol. 5. a. b. Et quant al distinction de Brytton parenter inheritance et purchase, sir ieo n'ay grande regarde a ceo, car son lyeur conteigne mults erreurs.

Mes le lyeur de Lyttleton, que est solonque le pziemer edition, en que les nouels additions sont omise, que est le verey et pluis sure regisser del fundaments et pzinciples de nostre ley, define, quod *foedum simplex idem est quod hereditas legitima vel pura*. Et issint il pziist chescun s'e simple dests inheritance. Et il dit que ceo parolle, inheritance, n'est seulement entende lon home ad terre per discent, mes auxi chescun s'e simple, ou taylor, que home ad per son purchase, est inheritance tamen vis verbi hoc non vult.

Fol. 161. b. Et le cauillation oue les parols contrary al simple entent, come Tullius dit en son lyuer de officijs, est *calumnia quædam & nimis callida, sed malitiosa iuris interpretatio, ex quo illud, summum ius, summa iniuria*. Come il mist exemple de vn que auoyt pziise truce pur 130 iours oue son enemy, et en le nuyet il destruisit et depopulate ses possessions pur ceo, come il dit, le truce fuit pur iours, et nyent pur les nuytes. Lequel Tullius accompt mere iniury et iniustice.

Fol. 321. b. Et ialemeins fuit dit per Gerrard que en le lyuer appelle *expositiones vocabulorum*, que fuit mise en pziint 40 ans passe, il est declare que mynes de ore et argent en quecunq; terres, que ils sont, afferont al roys del ceo realme. Issint Wray dit, que Heskett appzientice que fuit bien appzise en le ley, en son lecture extant sur le statute de charta foreste. affirmast, que si fueront mynes de ore et argent en terre del subiects deins le foreste, que ceur afferont al roy. Issint il dit, que il auoyt vieu les leys de s. Edward le Confessoz, en queur fuit conteigne, quod *Theauri de terra pertinent domino regi*. Et issint dit Barham del leys William conqueroz,

S. g.

queur

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querit il auoyt vlew, querit auoyent semblables parols.

The offering of triall and pꝛofe, belongeth to this place, as when a man seeing his woꝝds not belæued, biddeth them trie and then trust, as in Terence of the boy, fac periculum in literis, fac in musicis, fac in palestra: quæ liberum scire æquum est, solertem dabo: trie the boy in learning, try him in singing, trie him in wrestling: I will undertake you shall finde him sufficient in whatsoeuer belongeth to a free boyne boy.

Annotations.

Adrianus rectè rescripsit, se testibus, non testimonijs crediturum, itaq; testium dignitas consideranda est: neq; enim quia affirmatum sit, aut negatum, ideo erit, aut non erit, *Arist.* de interpret: but because he that spake it, was so honest and wise a man, as that hee woulde not affirme an vntruth. *Arist.* 20. Rhet.

God is to be belæued without exception, because God spake it: but men are so much either moꝛe or lesse credited, by how much their behauiour & learning is moꝛe or lesse esteemed. Therefore the Pythagorians were very foolish in thinking their maister Pythagoras so wise, as that it were a sufficient argument, the thing were so, because Pythagoras said it was so, αὐτὸς εἶπεν ipse dixit: ipse autem erat *Pythagoras*. Those men, saith Plato in *Protagoras* that vse the authoritie of others instead of argumentes of their owne, are like to seely soules of the country, when they keepe their wakes: quum enim propter incitiam nequeant inuicem propria voce suisq; sermonibus ipsi colloqui, mercede exhibita tibicines introducunt, vt aliena voce, id est tibiærum flatu, conuiuium transigant. Vbi autem boni, præclariq; & eruditi viri conueniunt, neq; tibicines, neq; saltatrices, neq; cantatrices vllas videas, sed voce propria, remotis ijs nugis iocisq; conuiuium celebrare & alternis interrogationibus responsionibusq; modestè disserere, etiamsi vinum abunde bibant. And in *Gorgias* he saith truely, that in these borrowed testimonies there is no reason or perswasion, but rather violence and compulsion. Therefore, in *Charmide*, he biddeth vs consider,

soer, not who speaketh, but how true that is which is spoken. So sayde Aristotle of his owne mayster Plato, *Amicus Socrates, amicus Plato, magis amica veritas*. I loue Socrates and Plato well, but I like the truth better. So in 5. E. 4. 112. est dit, que precedents et course ne rule le ley, mes le ley rule lera eur. Et pur ceo la suit dit, que tñ vtlagary suit reuers, quia il suit ad Com. Lancaster ibidem tent. et ne dit apud Lancaster, ou tiel lieu certeyne, a que le ibidem poet estre refer, nient obstant que fueront 100 precedent de cel retozne. Dong; a fortiori, d'un precedent, quia vna hirundo non facit ver. 1. & 2. M. 14. Dyer.

Canons.

Hære, they are vsually wont to say, *Vnicuiq; in sua arte perito, credendum est*. Every man is to be beleued in that art which he professeth, and wherein he hath skill and experience.

The Rhetoricians dispute with, and against extort testimonies, as present occasion is euer offered vnto them.

In our law, twelue be chosen and swozne; their verdict is quasi veredictum. The suspected men may be ousted by challenge. Hære vpon we haue challenge peremptory, challenge per cause, &c.

Paister Lambard Iust. But especially there ought to appeare such Jurozs, as be returned by the shiriffe, and warned by his bayliffe, whether it be for enquiry or tryall: and in this behalfe, both the commission, the common forme of the precept, and the Law it selfe (11. H. 4. cap. 9.) willeth that they should be *probi & legales homines*. For if any of them be discredited in Law, as by attainder in conspiracy, attaint, *Decies tantum*, subornation of periury, or such like, they be not *probi*, and their presentment is voyde by it, vnlesse there be 12. besides them, that are not so blemished. Agayne, if they be outlawed, abiured, condemned in a *Præmunire*, or attaynted of treason, felony, or such like, then be they not *legales*, and their presentment is merely voyde also, as it may be gathered vpon the case. 11. H. 4. 41.

And women, infants vnder fourtene yeres of age, aliens, and such as be within orders of the ministry of the clergy,

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cannot

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cannot bee impannelled amongst others. Generally also, these Jurors ought either to bee inhabiting within the shire, or els to haue landes there: for, the commission willet, that they should be such per quos rei veritas melius sciri poterit: which must needs bee vnderstoode of such, as haue cause to know the countrey: and the precept is vsually according to the same forme. But especially in the countie Palatine of Lancaster, each Jurour ought to haue to the yearely value of five poundes by order of the statute. 33. H. 6. ca. 2. Now by 27. Elic. every Juror must haue iij. pound by the yeare.

But these men bee not truely Jurors, till they bee sworn, as their name pretendeth, and otherwise their presentment is utterly voyde.

Each Jury of Enquiry ought to containe twelue in number at the least, & if there bee 18. or moe, it shal not bee amisse. Peca the common order with vs is, to haue them of an odde number, as 17. 19. or 21. to the ende (as it seemeth) that if they should dissent in opinion somewhat equallie, yet there should bee alwayes one, to wey downe the side, and cast the ballance: but if 12. of them doe agree, the gaynelaying of the residue cannot hinder the presentment. Les Jurors tryeront le fait, et nemy le ley, quia sont ignozants: mes les Judges le ley, itaq; trauers est prise sur le matter in fait et non sur le matter en ley. Vide Plowden. Fol. 231.

Fortescue, Lord Chauncelloz, in Henry the first his time, preferreth this order of triall before that vsed in the Ciuill Law. His comparison is to this effect.

Si coram Iudice contententes, ad litis perueniant contestationem super materia facti (quam legis Angliæ periti exitum placiti appellant) exitus huiusmodi veritas per leges ciuiles, per testium depositionem probari debet, in qua duo testes idonei sufficiunt. Sed per leges Angliæ veritas illa non nisi duodecim hominum de vicineto vbi factum huiusmodi supponitur sacramento, Iudici constare poterit: and afterward.

Per leges ciuiles pars quæ in litis contestatione affirmatiuam dicit, testes producere debet, quos ipsemet ad libitum suum nominabit. Negatiua autem probari non potest, videlicet directè: licet possit per obliquum. Ex illis quippè creditur

creditur esse potentia; minoris quoq; industria, qui de omnibus quos noscit hominibus, duos reperire nequit ita conscientia & veritate vacuos, vt timore, amore, vel cominodo, omni velint contraire veritati. Hos potest tunc ipse in testimonium producere in causa sua; & si contra eos pars altera dicere velit, vel contra eorum dicta, non semper continget eos, eorum quoq; mores aut facta apud contradicere volentem agnosci, vt ex eorum fœditate & vitijs testes illi possint reprobari. Et dum eorum dicta affirmatiuam contineant, non facile poterunt illa per circumstantias aut obliqua alia improbari. Quis tunc poterit suorum aut suiipsius sub lege tali viuere securus, dum cuilibet sibi inimicari volenti lex tale præstat subsidium? Et qui iniqui duo tam incauti sunt, quod facti de quo ipsi examinabuntur in iudicio, non, antequam in testes producantur, occulte fingant imaginem & figuram; componant quoq; eisdem omnes circumstantias, quales sibi affuissent, si illud in veritate constitisset? Prudentiores namq; vt dicit Dominus, sunt filij huius mundi, quam filij lucis. Sic *Iesabel* sceleratissima, testes duos filios *Belial*, contra *Nabot* in iudicio produxit, quo ipse vitam perdidit; & *Achab* rex, eius vineam possidebat. Sic duorum senum etiam Iudicum testimonio, mortua fuisset pro adulterio vxor castissima *Susanna*, si non eam miraculose liberasset Dominus inexcogitabili prudentia, quam à natura non habuit puer iunior nondum ætate prouectus. Et si ipsos depositione sua varia conuicerat puer ille esse falsarios, quis nisi solum Dominus nouisse poterat eos in dictis suis taliter variaturos? dum non de arboris natura sub qua imputatum facinus fiebat, lex aliqua eos arctabat reminisci, quia testes sceleris cuiusq; considerare non putantur omnia umbracula & cætera vicina illi facto, quæ ad aggrauationem vel detectionem criminis illius minime operantur. Sed dum de arborum speciebus, Iudices illi nequam vtrò deponentes variabant, eorum dicta ipsos veritatis fuisse præuaticatores demonstrabant, quò & talionis poenam merito incurrerunt. And so forth in the example of one Iohn Fringe, that at his death protested hee was not guilty of the fault, whereof two men accused him. Et alibi. Non igitur contenta est lex Franciæ, in criminalibus vbi mors imminet, reum testibus conuincere,

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ne falsidicorum testimonio sanguis innocens cōdemnetur. Sed mauult lex illa reos tales torturis cruciari, quousq; ipsi eorum reatum confiteantur, quam testium depositione, qui sæpè passionibus iniquis, & quandōq; subornatione malorum ad per- iuria stimulantur. Quali cautione & astutia, criminosi etiam & de criminibus suspecti tot torturarum in regno illo generibus affinguntur, quod fastidit calamus ea literis designare. Qui- dam verò in equuleis extenduntur, quo eorum rumpuntur nerui, & venæ in sanguinis fluentia prorumpunt. Quorundam verò dinerforum ponderum pendulis dissoluuntur compagi- nes & iuncturæ: & quorundam gaggantur ora, vsq; dum per illa tot aquarum infundantur fluentia, vt ipforum venter montis tumescat more, quo tunc venter ille fossorio vel simili percussus instrumento, per os aquam illam euomat ad instar balenæ quæ cum halecibus & alijs pisciculis mare absorbit, aquam desumat, ad altitudinem arboris pini. Piget, proh pu- dor, iam penna exquisitorum ad hæc cruciatuum enarrare im- mania. Nam eorum variatus numerus vix notari poterit ma- gna in membrana. Leges etiam ipsæ ciuiles deficiente testium copia, in criminalibus, veritatem consimilibus extorquent tor- mentis, qualiter & faciunt etiam quamplurima regna. Sed quis tam duri animi est, qui semel ab atroci tanto torculari laxatus, non potius innocens ille omnia fateretur scelerum ge- nera, quam acerbitatem sic experti iterum subire tormenti; & non semel mori mallet, dum mors sit vltimum terribilium, quàm totiens occidi, & totidem gehennales furias morte ama- riores sustinere? *Then followeth an example of one that by torture confessed thinges vntrue &c.* Taliter, proh dolor, & quamplures alij miseri faciunt, non veritatis causa, sed solum vrgentibus torturis artati. Quid tunc certitudinis resultat ex confessionibus taliter compressorum?

Cæterum, si innocens aliquis non immemor salutis æter- næ in huiusmodi *Babylonis* fornace, cum tribus pueris benedi- cat Dominum, nec mentiri velit in perniciem animi sui, quo iudex eum pronunciat innocentem, nonne eodem iudicio iu- dex ille, seipsum reum iudicat omnis scitix & poenarum quibus innocentem afflixit? ô quàm crudelis est lex talis, quæ dum innocentem damnare nequit, iudicem ipsum condemnat?

Et

Et alibi. Præterea si ex contractibus illatisuē iniurijs, vel hæreditatis titulo, ius accreuerit homini, agendi in iudicio, si testes non fuerint, vel si qui fuerint, moriantur, succumbet ipse agens in causa sua, nisi ius suum probare valeat iueuitabilibus coniecturis, quod facere crebrò non contingit. Quare de dominijs & alijs possessionibus iure ciuili regulatis similiter & in omnibus actionibus cadentibus sub eodem iure, actiones agentium pro defectu testium quampluries suffocantur, ita quod earum vix pars media optatum finem sortiatur, &c.

The order of our common law followeth.

Regnum Angliæ per comitatus, vt regnum Franciæ per Balliuatus distinguitur, ita vt non sit locus in Anglia, qui non sit infra corpus alicuius comitatus. Comitatus quoq; diuiduntur in Hundreda. quæ alicubi Wapentakia nuncupantur. Hundreda verò diuiduntur per villas, sub quarum appellatiōe continentur & burgi atq; ciuitates. Villarum etenim metæ non muris, ædificijs aut stratis terminantur, sed agrorum ambitibus, territorijs magnis, hamletis quibusdam, & multis alijs, sicut aquarum, boscorum, & vastorum terminis, quæ iam non expedit nominibus designare, quia vix in Anglia est locus aliquis qui non infrà villarum ambitus contineatur, licet priuilegiati loci quidam infrà villas, de eisdem villis pars esse non censentur. Præterea in quolibet comitatu est officarius quidam vnus regis vicecomes appellatus, qui inter cætera sui officij ministeria, omnia mandata & iudicia curiarum regis in comitatu suo exequenda exequitur. Cuius officium annale est, quo ei post annum in eodem ministrare non licet. nec duobus tunc sequentibus annis ad idem officium reassumetur. Officiarius iste sic eligitur. Quolibet anno in crastino animatum, conueniunt in Scaccario regis omnes consiliarij eius, tam domini spirituales & temporales, quàm alij omnes iusticiarii, omnes barones de Scaccario, clericus rotulorū, & quidam alij officarij, vbi hi omnes cōmuni assensu nominant de quolibet comitatu tres milites vel armigeros, quos inter ceteros eiusdem comitatus, ipsi opinantur melioris esse dispositionis & famæ, & ad officium vicecomitis comitatus illius melius dispositos: ex quibus rex vnum tantum eliget, quem per literas suas patentes constituet vicecomitem comitatus de quo eli-

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gitur,

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gitur, pro anno tunc sequente. Sed ipse antequam literas illas recipiat, iurabit super sancta Dei euangelia, inter articulos alios quod benè, fideliter & indifferenter exercebit & faciet officium suum toto anno illo, neq; aliquid accipiet colore aut causa officij sui ab aliquo alio quam à rege. His iam sic presuppositis, ad eorum quæ quærimus, indaginem procedamus.

Quotiescunq; contententes in curijs regis Angliæ ad exitum placiti super materia facti deuenerint, concito, Iustitiarij per breue regis scribunt vicecomiti comitatus in quo factum illud fieri supponitur, quod ipse venire faciat coram eisdem Iustitiarijs ad certum diem per eos limitatum, duodecim probos & legales homines, de vicineto, vbi illud factum supponitur, qui neutrum partium sic placitantium vlla affinitate attingunt, ad recognoscendum super eorum sacramenta, si factum illud factum fuerit, sicut vna earundem partium dicit, vel non, sicut altera pars negat. Quo adueniente die, vicecomes returnabit breue prædictum coram eisdem Iustitiarijs vna cum panello nominum eorum quos ipse ad hoc summoniuit, quos, si venerint, vtraq; pars recusare poterit, dicendo quod vicecomes panellum illud fauorabiliter fecit pro parte altera, viz. de personis nimis indifferentibus. Quæ exceptio, si comperta fuerit vera per sacramentum duorum hominum de eodem panello ad hoc per Iustitios electorum, mox panellum illud quassabitur, & Iustitiarij tunc scribent coronatoribus eiusdem comitatus, quod ipsi nouum faciant panellum. Quod cum fecerint, si & illud consimiliter repertum fuerit viciatū, etiam & illud quassabitur: & tunc iustitiarij eligent duos de clericis curiæ illius, vel alios de eodem comitatu qui in præsentia curiæ per eorum sacramenta facient indifferens panellum, quod deinde per nullam partium illarum calumniabitur. Sed cum venerint sic impanellati in curiam, quelibet partium excipere potest contra personam cuiuscunq; eorum, sicut & potest in omni casu & omni tempore, quo aliquis qualitercunq; impanellatus comparuerit in curia super veritate exitus huiusmodi iuraturus: dicendo, quod impanellatus ille est consanguineus vel affinis parti alteri, vel amicitia quacunq; tali sibi coniunctus, quod indifferens ipse non est ostendere inter eos veritatem: qualium exceptionum tot sunt genera & species, quod non
licet

fiet eas breuī explicare sermone : quarum si aliqua reperta fuerit vera, non tunc iurabitur ille contra quem exceptio illa proponitur, sed cancellabitur nomen eius in pannello. Sic quoque fiet de omnibus nominibus impanellatorum, quousq; duodecim eorū iurentur ita indifferentes, quod versus eos neutra partium habeat aliquam materiam calumniæ. Horum autem duodecim ad minus quatuor erunt de hundredo vbi villa in qua factū de quo contenditur, fieri supponitur, sita est. Et quilibet iuratorū huiusmodi habebit terras vel redditus pro termino vitæ suæ ad minus, ad valorem annuū 40. s. (notw 4. li. by stat. 27. Eli.) Et hic ordo obseruatur in omnibus actionibus & causis criminalibus, realibus & personalibus, præterquam vbi damna vel debitum in personalibus non excedunt 40. marcas monetæ anglicanæ. quia tunc non requiritur, quod iuratores in actionibus huiusmodi tantum expendere possint. Habebunt tamen terram vel redditū ad valorem competentem iuxta discretionē iustitiariorum, alioquin ipsi minime iurabūtur, ne per inediām & paupertatem iuratores huiusmodi de facili valeant corrumpi & subornari.

Et si per tales exceptiones, tot iuratorum nomina in pannello cancellentur, quod non remaneat numerus sufficiens ad faciendam inde iuratam, tunc mandabitur vicecomiti, per breue regis quod ipse apponat plures iuratores : quod & sæpius fieri potest, ita quod inquisitio veritatis super exitu placiti, non remanebit ob defectum iuratorum &c.

Iuratis demum in forma prædicta duodecim probis & legalibus hominibus habentibus vltra mobilia sua, possessiones, vt prædicitur sufficientes, vnde eorū statum ipsi continere poterint, & nulli partium suspectis nec inuisis, sed iisdem vicinis, legetur in Anglico coram eis per curiam totum recordum & processus placiti quod pendet inter partes : ac dilucidè exponetur eis exitus placiti de cuius veritate iurati illi curiam certificabunt. Quibus peractis, vtrāque partium per se vel consiliarios suos in præsentia curiæ referet & manifestabit eisdem iuratis, omnes & singulas materias & euidentias quibus eos docere se posse credit veritatem exitus taliter placitati. Et tunc adducere potest vtrāq; pars corā eisdem iustitiarijs & iuratis omnes & singulos testes quos pro parte sua

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ipsa producere velit, qui super sancta Dei euangelia per iusticiarios onerati, testificabuntur omnia quæ cognoscunt probantia veritatem facti de quo partes contendunt. Et si necessitas exegerit, diuidentur testes huiusmodi, donec ipsi deposuerint quicquid velint, ita quod dictum vnius non docebit, aut concitabit eorum alium ad consimiliter testificandum. Quibus consummatis, postquam iuratores illi deinde ad eorum libitum super veritate exitus huiusmodi, deliberatione quantam ipsi optabunt, colloquium habuerint, in custodia ministrorum curiæ in loco eis ad hoc assignato, ne interim eos aliqui subornare valeant, reuenient illi in curiam, & certificabunt iustitios super veritate exitus sic iuncti, in præsentia partium, si interesse velint, & maximè, petentis. Quorum iuratorum dictum per leges Angliæ, Verdictum nuncupatur; & tunc secundum huiusmodi verdicti qualitatem, iustitii reddent & formabunt iudicium suum. Tamen, si pars altera, contra quam verdictum huiusmodi prolatum est, conqueratur se per illud iniuste esse grauatum, prosequi tunc potest pars illa versus iuratores illos, & versus partem quæ obtinuit, breue de attainctæ. Virtute cuius, si compertum fuerit per sacramentum viginti quatuor hominum in forma prænotata retornatorum, qui multo maiora habebunt patrimonia quam iuratores primi, quod iidem iuratores primi falsum fecerunt sacramentum, corpora eorundem primorum iuratorum prisonæ regis committentur, bona eorum confiscabuntur, ac omnes possessiones eorundem in manus regis capientur; domus quoque eorum & ædificia prostermentur, bosci succidentur, & prata arabuntur, ipsi etiam iuratores primi extunc infames erunt, nec alicubi recipientur in testimonium veritatis. & pars quæ succubuit in priori placito, restituetur ad omnia quæ ipse perdidit occasione eius. Quis tunc, etsi immemor salutis animæ suæ fuerit, non formidine tantæ poenæ, & verecundia tantæ infamiæ, veritatem non diceret sic iuratus? Et si vnus forsan tantus sui honoris prodigus esse non pepercerit, aliqui tamen iuratorum tantorum famam suam non negligent, neque bona & possessiones suas taliter distrahi patiétur propria culpa sua. Nonne iam hic ordo reuelandi veritatem potior & efficacior est, quam est processus qualem pariunt ciuiles leges? Non hic pereunt causæ aut ius alicuius
per

per mortem, aut ob defectum testium, non hic producuntur testes ignoti, conductitij, pauperes, vagi, inconstantes, aut quorum conditiones vel malitiæ ignorantur. Vicini sunt testes isti de proprijs viuere potentes, famæ integræ, & opinionis illesæ, non per partem in curiam ducti, sed per officiarium nobilem & indifferentem electi, & coram iudice venire compulsi. Isti omnia sciunt quæ testes deponere norunt, & isti testium productorum agnoscunt constantias inconstantiasq; & famam. Quid vltra? Verè nihil est quod veritatem dubij de quo contendì poterit detegere valebit, quod iuratoribus talibus latere quomodolibet potest aut ignorari, dummodo possibile sit, illud venire posse in cognitionem humanam.

And then after, de causis criminalibus. Si reus quispiam de feloniam aut prodicione in Anglia rettatus, crimen suum coram iudicibus dedicat, mox vicecomes comitatus vbi facinus illud commissum est, venire faciet coram eisdem iudicibus viginti quatuor probos & legales homines de vicineto villæ vbi illud factum est, qui rettato illi nulla affinitate attingunt, & quorum quilibet centum solidatus habeat terræ & redditus, ad certificandum iudices illos super criminis illius veritate. Quibus comparentibus, rettatus ille eos calumniare potest eadem forma qua in actionibus realibus fieri debere superius describitur. Et insuper reus ipse, in fauorem vitæ suæ calumniare potuit olim trigintaquinque homines quos ipse maximè formidat, qui ad eius calumniam cancellabuntur in pannello, aut signis talibus notabuntur, quod (vt verbis legis vtar) illi super eum non transibunt, licet ipse nullam causam assignare sciat exceptionis seu calumniæ suæ. Quis tunc mori possit iniquè in Anglia pro crimine, cum tot iuuamina habere ille poterit ob fauorem vitæ suæ? Et non nisi vicini eius, probi & fideles homines, versus quos ipse nullam habet materiam exceptionis eum condemnare poterunt? Mallem reuera viginti facinorosos mortem pietate euadere, quàm iustum vnum iniuste condemnari.

Nec tamen reum quempiam sub hac forma, reatus sui poenam euadere posse suspicandum est, dum eius vita & mores timori deinceps erunt eis qui eum sic purgarunt à crimine.

In hoc equidem processu nihil est crudele, nihil inhumana-

The first Booke.

num, nec lædi poterit innocens in corpore aut membris suis; quare nec formidabit ille calumniam inimicorum eius, quia non torquetur iste ad arbitrium ipsorum. Igitur sub hac lege vivere, quietum & securum est &c.

Somuch I thought good to boꝛowe of Fortescue, concerning witneses and testimonies, tortures, rackinges, and suche other greivous & extort confessions bled, as he saith in France and elswhere. The rudenesse of the time wherein he wrote, must excuse the manner of his writing, which is not over elegant.

Reade the statutes made, 17. E. 2. and there see the othe of a villeine doing fealtie vnto his Lord: from whence Littleton, hath set the prescribed formes of oathes to be bled of framen in doing homage, and fealtie to their Lords, partition, 91. 85. 86. 87. 88. 89.

Of the writing, ensealing, and deliuering of deedes and evidences, Parkins hath a special tractate cap. 20. Where the misdating, rasing, interlyning, adding new letters vpon the old, hāging in the smoke, breaking of y seal, vtter quashing of the print, heating of the ware and fastning therof to the Labell from whence it was once seuered, with other such imperfections, make the daꝛde suspicions.

Of the auncient manner of sealing with crosses and such markes, of Edward the thirde fashio in biting the ware with his tooth, reade the exposition of our Lawtearmes.

Elenchs.

A false testimonie is descried by the wickednesse, and malicious nature of him that gaue witnesse. The worlde is full of false forsworne knaues, desperate careawales, and rascall-like shwasbucklers, that boꝛowe citizens gownes to sell hired oathes, to the vtter subuersion of Justice, and vndoing of wel-meaning neighbours. So that no one thing is moꝛe common then that damnable speech, Iuravi lingua, mentem iniuratam gero, and Iura, periura, secretum prodere noli.

The first Booke.

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The 20. Chapter.

Of compared argumentes.

Hitherto then of the first diuision of argumentes. Now secondly, an argument is eyther simple, or compared. Simple is that which is simply considered without any respect of comparison. Compared is that which is compared with another. Compared arguments are sometimes briefly expessed by plaine and euident signes, and sometimes largely distinguished by two partes, whereof the first is called the proposition, which propoundeth and putteth downe the first part of the comparison in the first place: the second is the Reddition, which addeth the second part, and applyeth it vnto the first.

Comparison is eyther in qualitie, or quantitie. Qualitie is that whereby thinges compared are called eyther like, or vnlike.

Like are those which haue the selfe same qualitie: this likenesse is called Proportion, and the thinges like proportionable. The signes be these, like as, euen as, so, and a deniall of the vnlike.

Diggon in September.

They looken big, as Buls that bene bate,
And bearen the cragge so stiffe and so state,
As Cock on his dunghill crowing cranck,
Well away the while I was so fond,
To leaue the good that I had in hond,
In hope of better that was vncouth,
So lost the dog the flesh in his mouth:

And below.

Thus chatten the people in their steds,
Ylike as a monster of many heads;

The gate of her kiddy in May:

For euen so thy father his head vphelde,
And so his hawtie hornes did he welde.

Piers in May.

Sike mens folly I cannot compare.

Agayne

Better

The first Booke.

Better then to the ~~apes~~ foolish care,
That is so enamoured of her yong one,
And yet, God wot, such cause hath shee none:
That with her hard hold and straitte embracing,
Shee stoppeth the breath of her yongling,
Sometimes there be no notes at all, as,
Thenot in February.

For youth is a bubble blowne vp with breath,
Whose wit is weakenesse, whose wage is death,
Whose way is wildernesse, whose Inne penance,
And stoope-gallant age the hoste of greuance.

**The parts of a similitude are sometimes moze largely put
downe, and that by thre partes and degrees of comparison,
or els by foure. The first is called a continued similitude.
the seconde a distinct and seuered similitude : For the first,
Cuddy in February hath this :**

The keene could blowes through my beaten hide,
All as I were through the body gryde :
My ragged rontes all shiuer and shake,
As doone high towers in an earthquake.

**Where one part must be twise repeated to couple and con-
finue the similitude, thus, As towers shake in an earth-
quake, so my rontes shake, where this word, shake, is twise
mentioned.**

**Colyn in January vseth a distinct similitude with foure
tearmes.**

You naked trees, whose shady leaues are lost,
Wherein the byrds were woont to build their bowre
And now are cloathed with mosse and hoarie frost,
Instead of blosmes wherewith your buds did flowre:
I see your teares that from your bowes do rayne,
Whose drops in dreary Isicles remayne.
Also my lustfull lease is drie and seare,
My timely buds with wailing all are wasted.
The blossome which my branch of youth did beare,
With breathed sighes is blowne away and blasted.
And from myne eyes the drizling teares descend
As on your boughes the Isicles depend.

Fayned

Rayned similitudes haue like force with others : and here in these similitudes thus largely put downe, Esopicall fables haue very good grace. So Menenius Agrippa vsing the tale of the rebellion betwene the belly and other partes of the body : and comparing that with the rebellion betwene the common people and senators of Rome, perswaded those that were fled to the holie hill, quicklie to returne home to Rome, and become consozmable citizens.

Maister Plowden, Fol. 31. b. Semblable reason semblable ley.

Fol. 369. b. Et Catlyne resemble le fine per ces act, al Ianus, quel, il dit, fuit Noe: mes les Romaines sur occasion luy nosme Ianus, et vse de pister luy oue deux faces, vn aspectant arere, s.backward, en respect que il auoit vield le former monde que fuit peri per le inundation, et auter, aspectant auant, s. forward, in respect que il comence nouel monde commenceant de le inundation et procedant billonques en euant. Et pur ceo ils luy appelle Ianus Bifrons et auri portant clyffe en sa mayne, signifiant per ceo clyffe son popar per son generatiō de renouater le nouel monde. Issint ceo act fait vn inundation, per quel tout former d'oit deuant le fine serra merge per non clame. car non clame est le flud et le fine produce nouel generation, quel est le nouel d'oyf. Car le fine fait nouel d'oit, et est le commencement de nouel monde, quel procede del temps del fine en auant.

Fol. 272. Et il dit que il y ad diuersite enter lease conditional, et condition, d'auer lease. Car lease conditional est bone tanques le condition est enfreint, et la le lease va deuant, et le condition vyent apres. Mes en condition d'auer lease, le condition va deuant, et le lease vient apres, et le lease ne serra unques nindge destre lease, tanque le condition soit pyimes performe. Come si ieo graunt a vous que si vous faces tiel chose, vous aueres lease en tiel mon terre, la, il dit, le condition precede le lease, come le nedle preceds le file, et sicome le nedle tray le file puis luy, issint fait le condition le lease la.

Fol. 465. a. De cest iudgement, et le cause popes veyer, (lecteur) que les parolles del ley, ne sont le ley, mes le inter,

The first Booke.

nall sence. Et nostre ley, come tous autres leyes, ad deux parts, cella sauoir, *carne* & *animam*. Le letter de le ley est le chaire de le ley, et le sence et reason del ley, est le alme de le ley, qui a *ratio legis est anima legis*. Et le ley poet estre ressemblable a vn noir, que ad vn test, et vn cerneau deins. Le letter represent le test, et le sence le cerneau; et sicome ne serres le meliour pur le noir si arrestes sur le test, nyent puis serres pur le ley, si arrestes sur le letter. Et sicome le fruyt et profite est en le cerneau, et nient en le test, issint le fruyt et profite de ley est en le sence puis tost que en le letter, et souvent foits quant vous saches le letter, vous ne saches le sence. Car aucun foits le sence ne serra cy large come le letter est, et aucun foits le sence serra puis large que le letter: et equitie, que en Lattin est appelle, *æquitas*, amplifie, ou demenuist le letter, come sa direction veult.

Fol. 486. a. Car soyt le atteinder per statute, on per common ley, le soysseure al roy ensue, come le vmbze ensue le corps, come Dyer le termine.

Fol. 529. b. Et il dit, sicome femme que ad recouer doluer, ne poet entrer, mes doit auer seisin deliuer a luy per le viscount. Et sicome vn copyholder, a que vn copyhold tenement est disceude, doit estre admette per le seignior auant que il auera seisin in iudgement del ley. Issint cesty que est admett, ou institute al pzebend, parsonage, ou vicarage, ne poet auer seisin, ne est plein incumbent, tanque le archdeacon ad luy induct, ou, si soit pzebendary, deuant que le Deane et le chapter del Cathedral eglise lou sa pzebend est, ont luy enstalle.

Annotations.

Fayned similitudes bee very populare and plausible, and haue in them this one good thing, that where as it is sometimes hard to finde out true similitudes, it is an easie matter, to sayne some obde parable. But like examples of things done in dede bee best. *Aristo. 2. Rhet. hath that of the bzydled horse, and hungry flies.*

Bracton: descendit ius quasi ponderosum quid, cadens deorsum recta linea, vel transversali, & nunquam reascendit ea via qua descendit post mortem antecessorum: a latere tamen ascendit

ascendit alicui propter defectum heredū inferius prouenientium. Maister Lambard Iust. lib. 2. cap. 1. As a man that hath receiued hurt in his body by a stroake whereof he bleedeth freshly, will be content for the present to admit the help of any leech or surgeon comming next to hand, for the stanching of the blood and binding vp of the wounde, and yet would more gladly haue used the conference of diuers expert surgeons for doing the same if the danger of the hurt would haue graunted the time, that will be lost in calling them together: so also, the common counsaile of this realme finding that the body thereof may bee deeply wounded in some one member, and perceiuing that some euils must bee resisted at the very first (least otherwiso they grow past helpe and ware incurable) hath many times thought it good to commit to one or to a few Iustices of the peace (for that they bee ready and at hand) the stopping of the blood, as it were, and first dressing of the wound by repressing of force and other outrages that do sodainly arise: and hath yet neuerthelesse, when as the time and matter will permit, politikely established an assemblie and conference of all the Iustices, at certayne times in a full court and open session.

When it appeareth that the thinges which we compare together, be like, because that thing wherein they be compared, may be applied to them both; then we looke whether it be applied to them in equal proportion and quantitie, or vnequall: if in equall, then they bee pares, equall: if in vnequall, then impares, of the which the one is the more, the other is the lesse, which is the comparifon of quantitie: therefore I haue put qualitie before quantitie. For it were absurd to aske wheather Higs of Balkot, or Shepheard of Tugford, were the falsen knaue, vnlesse it were first graunted that they were both falsen knaues.

Affectio similitum inter se, (vt cæterorum argumentorum) est ἀναπαλινῳστήσις: Inuerse & alterne. Inuerse quando inuertitur ordo propositionis & redditionis tantum, aut etiam terminorum. Itaq; si quædam similia fuerint, inuerse similia erunt, vt aurum ad ignem, sic fides ad periculum, ergo vt fides ad periculum, sic aurum ad ignem, Item ergo, vt periculum,

The first Booke.

ad fidem, sic ignis ad aurum. Alterne, quando similitudinis antecedens antecedenti, & consequens consequenti comparatur: si quædam familia fuerint, alterne similia erunt, vt aurum ad ignem, sic fides ad periculum, ergo, vt aurum ad fidem, sic ignis ad periculum.

I haue made a second generall diuision of argumentes, into simple, and compared, as perceauing the nature of comparison to be incident to euery argument that is not simple.

Canons.

One like argueth an other: as this is in respect of that. so the other in respect of the other: As this is in that, so an other in another.

Of likes there is like reason. Lykes aggre to like.

Vbi eadem ratio, ibi idem ius. 19. H. 6. 18. b. Newton & Littleton, que sont en semblable reason, sont en semblable ley. pag. 301.

Vide 9. H. 6. 24. b. Bab. Home poet deniser que la terre serra vendue per les ercutoys, et issint home auera francktenement de cestuy que ne auera riens, come home auera fire dun synte, et vncoze null fire est in le synte. Sic in 19. H. 6. 24. Mark: Ercutoys povent doner chose que ils n'auoyent, come vn whettstone, que done sharpenes a vn cuttell, et vncoze null est en luy.

Si cui simpliciter via per fundum cuiuspiam concedatur vel relinquatur, quâ primum viam direxerit, ea demum ire, agere debet, nec amplius mutandæ eius potestatem habet, argumento riui, quem primò qualibet ducere licet, posteaquam ductus est, transferre non licet.

Elenchs,

As a new coate is better than an old: so new friendship, and new wine; these be not like.

The 21. Chapter.

Of the vnlike.



The vnlike is that whose qualitie is vnlike. The notes are these, vnlike, differing, otherwise, and the deniall of the like.

Thomalin in July.

But

But nothing such thilke shepheard was,
whome Ida hill did beare :

That left his flocke to fetch a lasse,
whose loue hee bought too deare.

The notes be oftentimes omitted, and the dissimilitude
more fully enlarged.

Colyn in June.

O happy *Hobbinoll*, I blesse thy state,
That Paradise hast found which *Adam* lost,
Here wander may thy flocke early or late :
Withouten dread of woolues to beene ytoft,
Thy louely layes here mayst thou freely boste :

But I vnhappy man whome cruell fate
And angry Gods pursue from coaste to coaste,
Can no where finde to shrowde my lucklesse pate.

Maister Plowden Fol. 76. b. Et quant a ceo que est dit,
que en le brieſe de dyoſt, quando capitalis dominus remiſit cu-
riam, que l'aſſent del ſeigniour eſt pꝛimes conus, et iſſint en
le Recordare, le claue eſt, ſi cauſa ſit vera, aliter non : ſir, ceo
eſt bon reaſon, et nyent ſemblable a noſtre caſe. Car la, eſt
parcell del inheritance del ſeigniour d'aueſ le plæ tenuſ en
ſon court, et d'aueſ les pꝛofites et caſualties veignant per
ceo, le quel n'eſt reaſon a toller de luy ſans cauſe. Mes en no-
ſtre caſe le viſcount n'eſt forſques miniſter al roy per luy
appoynt, et n'ad aucun pꝛofite, mes ſolement allowance pur
ſon laboꝝ, ſ. les ſes vſuall pur le execution del bꝛieſes : et ſi
auter ſerue les bꝛieſes, le viſcount ne perde riens, car il ne
pꝛiſt aucun laboꝝ. Et iſſint ſi le roy change ſon officer, n'eſt
aucun tort fayt al officer, et iſſint il ne poet eſte ſemble a les
autres caſes.

So much of Qualitie.

Annotations.

Diſſimilitudinis explicata redditio, hîc appellatur ἀνταπό-
δοσις, diſſimilis redditio, *Ramus*.

The difference betwæne argumentes vnlîke and argu-
ments diuers, is, that in diuers, the ſimpe and abſolute diſ-
agreëing of two thinges is conſidered : but in vnlîke argu-
ments, the vnlîke comparîſon of ſoure termes, that is of two
thinges

Al. ij.

The first Booke.

things, and the two qualities of the same. In diuers we as-
sume the one, and deny the other after a certaine manner; in
vnlikes we deny neither, but onely distinguish the one from
the other by the difference in quality. So that all disagreeable
arguments may be handled as vnlike, if the diuers qualitie
be respected.

Canors.

Of vnlikes there is vnlike reason.

Vnlikes agree with vnlike, &c.

Examples be euery where extant of likes and vnlikes in
our lawe.

Elenchs.

Golde is tryed in the fire, but not so, is trust and fide-
litie in aduersitie. This is false: for these thinges be like,
not vnlike.

The 22. Chapter.

Of the Equall.



Quantitie is that whereby things compared are
sayd to be of this or that quantitie.

Quantitie is either equall or vnequall. Equall
are those whose quantitie is equall. And there-
fore it is an argument from the equall, when
one equall is argued or declared by an other.

The equall hath certaine proper signes, whereby it is
often expresse in authoers, and may, if they want, alwaies be
added, for the playner declaration thereof, as, Equall, Alike,
The same that, Aswell as; Somuch howmuch; Somany
howmany; No lesse, no greater; and such like. Yet equals
are sometimes expresse without any note at all.

Thomalin in July bleseth notes.

Al soone may shepheards clymbe to skye,
that leade in lowly dales,

As gotheard proud that sitting hyc
vpon the mountaine sayles,

Willy in August.

Neuer

Neuer dempt more right of beauty I weene

The shepheard of *Ida*, that iudged beauties queene.

Maister Plowden Fol. 15. a. Car come proprement come il appent al office del byasser en l'auter case a weyer et met-ter en sieu le dit belle, ou al office del taylor, a shaper le panne; cy properment il appent al office del collector a weyer chose pur que le subsidie serroyt pay.

Fol. 7. a. Quant si home est tenu in un obligation sur condition de enseoffer I. Sc. et il fait lease pur ans, et release a luy en fee, il ad perforce le condition, coment que il n'ad perforce les parolles. Et vncore les parolles d'un condition d'obligation doyent estre perforce cy strayment come les parols dascun statute: mes entant que l'entent et effect est perforce et ceo que counteruaylera les parols, il suffist.

Annotations.

Canons.

This Logical quantity is most generally to be understood.

And therefore all those words be utterly reiected, which are not ample ynough to expresse the generall nature of this Logical quantity: As *υαρις*, facilis, difficilis, credibilis, incredibilis. Acque, magis, & minus probabilis, &c. As though no argument were of the more or greater, but that which were rather in, which had more probabilitie, which were more easie: And so in the lesse and equall. If a man will restrayne the generall nature of this quantity in this sort, he shall finde himselfe intangled with repugnant exam-
ples in such sort that so his heart he shall not be able to ryd himselfe out. If any thinke I do but ieast, let him reade the third part of Beurhusius, and make a tryall of his owne skill.

Canons.

Of things that be equall, there is equall reason and iudgment.

Of equals, if one eyther be, or not be; the other must in like manner be, or not be.

Equall things agree with equall.

Such things as are equall to any other thing, are also equall among themselves. This holdeth not in unequals, as 3. and 3. are unequall to 2. and yet equall among themselves.

¶

The first Booke.

If you doe either adde or detract equall things from things that bee equall, the whole, or remnant will bee equall.

You shall, as is sayde, sometimes meet with equals with, out any notes at all, as in Terence.

Quando ego non curo tuum, ne cura meum. Sith I meddle not with thine, meddle not thou with mine.

Agayne, the equall is returned against the equall nowe and then, without any forme.

If any one thing bee, or same to bee in some two thinges equally: then if it bee not in the one, it shall not bee in the other, but if it bee in the one it shall bee in the other. For the last part, take this example.

If a tutoꝝ must bee faithfull, then also a procuratoꝝ.

But a tutoꝝ must;

Therefore the procuratoꝝ must also.

Or thus more bylesly in a contracted syllogisme called an Enthymeme,

A Tutoꝝ must bee faithfull and true,

Therefore a procuratoꝝ must bee so also.

Other Logicians commonly, to confirme and proue the consequence in the Enthymeme, bring in the Canon before alleged out of Aristotle, if any one thing &c. But I had rather say, that this connered syllogisme is good and artificiall, so that no man ought to doubt of the consequence, which is already determined by the lawfulness of the syllogisme, which is the onely rule of all consequence and coherence.

Now for the partes of this consequence, I meane the proposition and the assumption; I say, the proposition is true, and that I proue by the definition of the equall. Because there is one and the same, or equall quantity, that is to say, an equall reason in a tutoꝝ, and in a procuratoꝝ. And as for the assumption, it is allowed by the ciuill law.

Yet wee are not altogether to relect these rules and Canons, but to vse them in writing and speaking, as certaine collaries, or fruites of this art: and not to put them downe in the art, for that most of them bee too particular, or doubtful and contingent, and also vnnecessary and superfluous.

The second Canon is this, If two things bee equally in a third;

third; then if the one bee, the other shall bee: if not this, neyther that. As, he wleth to lye, therefore to steale. It is not proper and peculiar to man so; to see, therefore neyther to heare.

The third and last. If two bee equally and indifferently in two, then if this bee not in that, the thirde shall not bee in the fourth: but if that bee, then this also, as in that out of Terence whereof wee spake before, Demeca saide to his brother Mitio:

Quando ego, non curo tuum, ne cura meum. With I care not so; thy sonne, Aeschinus, meddle not thou with my sonne Ctesiphon.

To this place also belonge those confectaries, which proceede from contraries, but are handled by a certaine comparison of equals, as that in Martiall.

Tum seruum scis te genitum blandeq; fateris

Cum dicis dominum, *Sosibiane*, patrem. Sosibian calleth his father maister, therefore hee confesseth himselfe to bee a servant.

Arist. 2. Rhet. Iphicrates, when hee saw his yongest son, because hee was bigge and tall, preferred to office; said thus. If you take great boyes so; men; you will surely make little men boyes.

4. E. 4. 33. b. Ardern. En precepe vers vn que n'ad riens in le vñ. tour del bziese, mes puis il enter in le terre ou purchase ceo, o;e per son fait demesne il ad fait le bziese bon. Donc; come le fait le tenant fait mal bziese bon, per mesme le reason, le fait le demandant fra vn bon bziese male. come en le case al barre, si le demandant enter en parcell del de maunde pendant le plé ou bziese.

Choke in 8. E. 4. 21. b. confuta Markam: Fol. 11. 4. Que sic argua, les parties que submittont &c. ne dischargeront les arbitro; sans notice, Ergo les arbitro; ne chargeront les parties sans notice. A que Choke dit, que ceux ne sont contraries, s. discharger les parties sans notice: et charger les parties sans notice: mes charger les arbitro; sans notice, et discharger eux sans notice sont contraries, car come le charge, ne serra sans notice, issint le discharge ne serra sans notice.

The first Booke.

This kinde of arguing is not alwayes effectuall, as a man is mortall, therefore a beast is immortall: it holdeth best when the argumentes be repugnant.

Elenchs.

Martiall in his first booke.

Quod *Alpha* dixi, Codre, penulatorum,
Te nuper aliqua cum iocarer in charta,
Si forte bilem mouit hic tibi versus,
Dicat licebit *Beta* me togatorum.

These be not equall. For although *Alpha* and *Beta* seme neighbours in the Greeke Alphabet, yet they are nothing equall in signification. For *Alpha* signifieth the chiefe or principall: whereas *Beta* eyther signifieth that which is second, or els hath no signification at all.

The 23. Chapter.

Of the Greater.

Hitherto of Equalles. Unequals are those which haue not the same quantitie.

Unequall is either more or lesse.

The more is that whose quantitie is the greater. The signes be such as these. Not onely, but also: Rather this, then that: more then: if this, much more that: and also the Grammaticall comparison.

Diggon in September.

For lyker beene they to plucke away more,

Then ought of the gotten good to restore.

And after

Yet better leaue of with a little losse,

Then by much wrestling to leaue the grosse.

Maister Plowden: Fol. 85. a. Le roy poet wayner in issue, et demurrer en ley, et contra: et anters prerogatiues il y ad, mes vncore, per misrecitall, ou misuser, ou mistonceiuer del action. il serra lye, et sur tiels matters les briefes abateront. come en les cases de comen persons. Et si le ley soit tiel lou le roy est sole partie, a multo fortiori sera tiel, lou auter person est partis oue le roy.

Fol.

Fol. 160. Et si le habendum donera estate en chose nyent done deuant, et a person nient nosme deuant, et altra l'estate done deuant, adonques il mieur puit declarer le sence del parolles en les premisses en nostre case, et nosmant ou les premisses comprehendre le chose en le habendum, come il fait en nostre case. Here is oftentimes a Logicall gradation, sometimes ioynd with a Rhetoricall climax.

Annotations.

When this note is in the consequent, much more, then it is an argumēt from the lesse, that is, from the lesse probable. But when it is said, Much lesse, it is an argument frō the greater, that is, from the more probable. This is Piscators iudgement. So that all argumentes from the greater should be negative; and, affirmative from the lesse. But, as I haue already shewed, so I now affirme againe; that we may reason as well affirmatiuely as negatiuely frō equals, greater, lesse, and all other arguments whatsoever, except diuers. For Ramus doth not tie this Logicall quantity, to such particuler consideration of probability, as Piscator doth imagine and teach out of Aristotle (for if hee so did, contrary examples would confute him) but leaue it free and generall, applyable to any thing whatsoever we can imagine to be equall, more, or lesse in any respect or consideration whatsoever, and as fit for confirmation as confutation.

This Logicall quantity therefore may be attributed to any thing incident and conuenient to our purpose, as, to dignitie, prayse, reproche, abilitie and power, greatnes, multitude, conueniency, commoditie, opportunitie, facilitie, difficultie, care, neglect, excellencie, vilenes, and in a worde, to whatsoever may be saide to be equall, more, or lesse.

They that do otherwise determine of this matter, are, as I sayd, wonderfully troubled with repugnant examples, contrary Canons, and variety of opinions.

They that will haue all arguments of the more to be negative and onely fit for confutation; all of the lesse, affirmative and seruing for assertion, do put downe these Canons out of the 4. chapter of the 2. booke of Aristotles Topikes.

The first Booke.

When two thinges are affirmed of one, if that which is moze like to be in it, be not in it, neyther shall that which is lesse lyke, as,

Satrapes, si fiet amator, nunquam sufferre eius sumptus queat : nedum tu possis.

If a Lord were her louer, hee could neuer maynteine her, much lesse thou.

When one thing is spoken of two, if it be not in that, wherein it is moze like to be, neyther shall it be in that, wherein it is lesse like to be : as, If the iust shall scarce be saued, where will the wicked appeare :

When two thinges are affirmed of two thinges, if that which is moze like to be in the one, be not in it, neyther shall the other be in the other : as, You breake not the saboth day in losing your ore, and bringing him to the water ; therefore much lesse I in losing the daughter of Abraham from the hands of Satan.

Others, as Cicero, Quintilian, and sometimes Ramus, would haue the greater onely to serue for confirmation, and the lesse, for confutation : taking that to be the greater which is the moze excellent, moze difficult and moze incredible : that to be the lesse which is moze abiect, easie, and sooner beleued : and therefore they lay downe these Canons.

That which hath force in the greater, must haue also force in the lesse, as,

Which haue suffered worse things then these;

Therefore these that be lesse may be borne of vs.

Ramus in his last edition leaueth this place free, loose, and at liberty, fit for affirmations and negations. An affirmatiue argument from the greater, is this out of Virgil, which I put downe last.

If the Troianes haue suffered greater thinges, they may also suffer lesse.

But the Troianes haue suffered greater daungers then these.

Therefore they may also beare these lesse.

The proposition is true, as gathering the lesse of the moze. For if the greater be, the lesse will also be : and in this

this place, that is called the greater, which is more unbearable and intollerable, as to suffer greater mischiefs.

The syllogisme it selfe is connered, and artificiall, therefore the consequence is good. A Negative example is, that in Terence.

If a Lord cannot maintayne her, much lesse thou. But a Lord cannot, therefore neither thou.

Fayned argumentes from the greater haue good grace as in this last example.

From this place bee deriued pretty gradations conioyned sometimes with a Rhetoricall climax, and sometimes alone without it. With it as,

Neq; verò se populo solum, sed etiam senatui tradidit: neq; senatui modò, sed etiam publicis præfidijs & armis: neq; his tantum, verumetiam, &c. *Tully pro Milone.*

Without any climax, is that in Terence betwene Thraso and Gnatho.

Th. Magnas verò agere gratias Thais mihi? Gn. Ingentes. Th. A'in tu? Iata est. Gn. Non tam ipso quidem dono, quam abs te datum esse: id vero serìo triumphat.

Where, (although there seeme to bee nothing but a simple exposition) is conteyned a syllogisticall probation, thus.

Thais giueth you exceeding great thanks, and she triumpheth for ioy, that the gift came from such a giuer.

Therefore, no doubt, she thanketh you, and is glad that you bestowed this on hir.

Sometimes the greater is bled without any notes or signes at all, as in that of *Virgill.*

Talibus insidijs periuriq; arte *sinonis*,

Credita res, captiq; dolis, lachrimisq; coactis:

Quos neq; *Tydidēs*, nec *Lavisæus Achilles*,

Non anni domuere decem: non mille carinæ.

Counterfayt teares circumuented them, whome neyther the cruell *Diomedes*, nor fierce *Achilles*. nor ten yeares warre, nor a thousand ships could overcome.

Canons.

If a greater quantitie bee (I take quantitie generally, as I layd befoze) then the lesse may also bee: but if the greater

Æij.

bee

The first Booke.

bee not, neyther shall the lesse bee.

If the greater and moze valiant cannot perfoyme a thing, neyther can the lesse and weaker. But if the greater can do it, it followeth not straightway that the lesse shall also do it.

If any chaunce vnlooked for, happen to the greater, it may moze easily light vpon the lesse and inferiour.

Si grammatica comparatio addatur ei quod comparatur & in quaestione versatur, reddit id ipsum maius, vt id cui comparatur, sit minus argumentumq; sit a minori: si vero addatur ei, quod ad arguendum adhibetur, argumentum est a maiori, itaq; tam in maiorum quam in minorum collocatione locum habet. Nam comparatiuus & superlatiuis superant positiuum, & id cui adduntur, maius esse significant, vt etiam verba quae similem vim habent; vt malo, praestat &c. *Wasserleider.*

Falsum est, sayth *snellius*, quod vulgò dicitur, propositionem hic continere maius, redditionem minus: imò respiciendum est perpetuò ad id quod arguit, si enim illud est maius, argumentum est a maiori, sin minus, a minori, quocunq; in loco ponatur.

In maiori inest minus. Non debet, cui plus licet, quod minus est, non licere. Vnde illa consecutaria: Cui ius est donandi, eidem & vendendi, & cōcedendi ius est, plus enim est donare: (quod profusionem quandam patrimonij continet) quam vendere (quod administrationis & vtilitatis est propter pretium) aut concedere, quod amicitiae est, vt in commodato aut precario. Et illud, cum quis poterit alienare, poterit & consentire alienationi.

3. E. 4. 24. Danby less: de 8. H. 6. ca. 9. Done treble dammages vers cessuy que enter oue force, ou teigne oue force. Et si lessa: done treble dammages pur l'un toxt tantum, à fortiori pur ambideur. Mint le bziese bon que soyne vtrumq;.

Hee t hat may doe the moze may doe the lesse: Doct. Stud. pag. 114.

The

The 24. Chapter.

Of the lesse.



The lesse is that whose quantitie is lesse. The signes of it are these. Not this onely, but not that. The denying of the equall, or equality: a grammaticall comparison.

In August, Perigot and Willy.

A chapelet on her head she bore,
hey ho chapelet:
Of sweet Violets therein was store,
she sweeter then the Violet.

Thenot in November.

She, while she was (that, was, a wofull word to sayne)
For beauties prayse, and pleasure had no peare.

Maister Plowden Fol. 57. a. Et quant a ceo que fuit aurt
dit per luy, que si le party serroyt force a monstre coment il
auoit tytle, que donques poet estre, que il auoyt duple tytle
(come en le case mise) et le monstans de ceo fairoyt le plée
double: si, quant a ceo, les plaintifes ont pvenent ceo assés
bien: car pour doubt que le plée serroit double, ils ount mon-
stre riens: et ore il est pier que double plée: car double plée
ad matter de substance, mes icy n'est aucun matter de sub-
stance.

There is also a gradation sometimes from the lesse.

Annotations.

As before in the greater, so here in the lesse, the common
Logicians differ. Some wil haue that to be lesse which
is lesse probable: byiesly, when the antecedent in the Enthy-
meme is lesse probable than the consequent. These men
will haue all arguments from the lesse, to be affirmatiue;
and they frame axiomes hereof accordingly, correspondent
to those of the greater.

If any thing be in that, wherein it is lesse like to be, it
shall also be in that, wherein it is more like to be, as, If
brute beastes loue their young ones, how tender a care
should

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Should we haue of our chilozen?

If that bee in a thing which is lesse like to bee in it, then that must bee in it, which is moze like to bee in it, as, God careth for the sowles of the ayre, therefore much moze for you.

If two thinges seeme to bee in two, the one in the other: and that bee in, which is lesse like to bee in, then the other shall bee in the other.

If we, being enemies to God bee reconciled vnto him by Christ his death, then

We, being now reconciled vnto God, shall be saued by Christ his life.

Others, (whome Ramus followed in two editions of his Logike) take that for the lesse, which is lesse difficult, which may sooner bee in the thing: Where they might perceiue, if they marked, that indeede, such things as are moze easily in, bee commonly the greater in strength, power, and dignitie. But they, not regarding this, haue framed such an axiome or Canon.

If a thing bee not in that, wherein it is most like to bee, then it shall not bee in that, wherein it is lesse like to bee: so that, according to their mind this place should serue onely for negatiue arguments, they vse this example.

A Lord cannot keepe her, therefore neyther thou.

Where the argument is rather from the greater.

Ramus therefore at the length left this place also generall and appliable aswell to affirmation as negation. An affirmative is this out of Ouid.

If thou care for the body, much moze wilt thou care for the soule:

But thou doest that: therefore this.

A Negatiue.

If God doe not reiect the sparrowes, much lesse you:

But he condemneth not them: therefore not you.

As the argument of the equall is vsed oftentimes in opposing one equall against another, so these of vnequals, bee sometimes in a very long continued speeche matched together, as in Ouid, where hee by a continued comparison of his owne miseries with those of Villes, inferreth that which he intended

intended, that hee was moze to be lamented then Vlisses:
And these may be sayned also, as ante leues ergo &c. in Virgil.
Here is also sometimes a gradation, as in this, facinus est vincire ciuem Romanum: scelus verberare: propè patricium necare: quid dicam in crucem tollere? *Ramus.*

Glanuil chiefe iustice in H. 2. dayes, lib. 7. ca. 10. Notandum quod si quis in capite de domino rege tenere debet, tunc eius custodia ad dominum regem plene pertinet, siue alios dominos habere debeat ipse heres, siue non, quia dominus rex nullum habere potest parem, multo minus superiorem.

Elenchs.

As when you take that for lesse which is not lesse. As if a boy can paynt, then a man can paynt, for although a boy be lesse then a man, yet a boy may sometimes soner paynt then a man.

So then by these generall heades thus distinguished, we haue the meanes and way of inuention put down. Although Menon make a great shew of proue that there is no art or order in inuention: for it were in vaine, quoth hee, to seeke for that which we haue found already, & it is impossible by search to find y^e which we know not when was se^e it: Socrates goeth about to dissolue this Dilemma, by I cannot tell what mistery of Pythagoricall philosophie, and saith that our Discere is nothing els but Recordari; and that our soules were adozned with perfection of all knowledge from eternitie, but enclosed in this fleshy dungeon of the body, wared dull, yet by the application of one thing to an other, remembered that againe which they had forgotten before.

Aristotle aunswereth it after an other maner, and saith, that hee who seeketh, knoweth generally what hee seeketh, though not in particularitie: so by this generall note and marke hee may obserue the speciall, whereof hee was ignorant before. And this is true in part, for when we haue conceiued the generall precepts of any art, then doe we search the particularities by the generall direction of those rules. But if Menon should goe further, and bring in that first inuention of man, when there was no obseruation either of generall or speciall, how would this aunswere suffice? There

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foze, for a small resolution, I say, that mans soule hath in it a naturall power and abilitie, whereby it is apt to conceiue any thing, if it bee directed, turned, applied, and bent thereunto: so saith Aristotle. 2. de demonst. that our soule brought not with it into the body the knowledge of thinges, as Socrates imagined, but onely a facultie and power of vnderstanding; as our eyes haue not the distinct kindes of colours ingrauen in them by nature, but onely an abilitie of seeing colours. So then, as a man looking on colours, saith: in like maner by applying his spirit and vnderstanding to thinges vnknowne, he may by the diligent perusing of these generall heades, finde, what he seeketh now, and knew not heeretofore. But to him onely, as Tully saith, will these generall predicamentes or Categorizies of argumentes become profitable in deede, which hath bene a trauailed and a well experienced man in matters of importance, which age and continuance of time affoordeth, or hath read much and heard more, which studie and diligence yeeldeth. Subactio enim ingenio opus est &c.

If we shall for exercise sake vse to draw any one word through these generall places of inuention, it will breede a great plentie and varietie of new argumentes, while wee marke what be the causes, effects, parts, whole, generall, speciall, subiectes, adfundes thereof, and so forth in all the rest: and this either in making and enditing our selues, or els in resoluing, and as it were dismembryng that which others haue done.

For the first, let that example of Nobilitas serue, put downe by Sturmius: For the later, we will take, Amicitia, out of Tullies dialogue, called Lælius. The examples be placed according to the vsuall distribution of arguments framed by Ramus, not according to this lately put downe by my selfe. The matter is not great: it may sone be altered, and should haue bene now, if time had suffered.

Causæ efficientes Nobilitatis. νᾱδωῖτα.

Maiorum præclara facta, & generis diuturna comprobatio, stirpisq; antiquitas atque amplitudo: hæ procreantes, conferuantes istæ.

Virtus

Virtus & continentia in posteris, quæ maiorum laudibus respondeat.

ἀρετὰ συνεχὲς ὄντα.

Liberalitas, fortitudo, clementia, ceteræq; virtutes cum corporis pulchritudine copulatæ.

Deſtruentes.

Morum turpitude, ignoratio, inhumanitas, vultus Centauricus, & habitudo *Polyphemi* Cyclopica.

Materia.

Ipsa generis antiquitas, & propria virtutis præstantia, frequenti actionum celebritate confirmata,

Forma.

Ista ipsa nominis amplitudo, longinquitate temporis confirmata, & hominum comprobatione stabilita,

Finis.

Vt quæ à maioribus præclare iacta sint nobilitatis fundamenta, à posteris perficiantur, vt & sibi honori, & amicis voluptati & reip. emolumento esse possint.

Effecta.

In Tyrocinio & exercitationibus militaribus aut cæteros æquales superasse viribus & virtute, aut melioribus & magnis industria fuisse parem : Sub literarum magistris magnam & diuturnam operam nauasse, & progressus magnos in doctrina fecisse : summa semper temperantia & sobrietate præditum fuisse : optimis & clarissimis imperatoribus stipendia fecisse : In nullo nisi iusto bello militasse : in hostem lenem & misericordem, non færum & crudelem extitisse : in acie & oppugnandis ciuitatibus semper inter primos visum fuisse : Duxisse exercitum : Appellatum imperatorem à militibus : Parua manu magnas copias sæpè fuisse : Sese pro patria deuouisse, aut voluisse deuouere, si permisissent milites : Ex præda, vel nullam pecuniam accepisse, vel ceteris parem : Res à se gestas historia complexum esse : Domi & in pace prudentem senatorem, charum suis, iucundum omnibus sese præbuisse : Principem senatus fuisse : Bis triumphasse : Tertiò consulem fuisse : semper fuisse verum & constantem, nunquam vanum & leuem,

Y.ij.

Subiecta.

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Subiecta.

Animus reuera nobilis & magnanimus, & virtutum præsidij vndiq; circumseptus.

Adiuncta.

Clarum esse, & illustrem: omnium gentium literis ac linguis celebrari: deduci: assurgere: &c.

Diuersa.

Non omnem à maioribus habuit nobilitatis opinionem, sed & suis virtutibus exornatam.

Disparata.

Non in simulata clementia nobilitatis umbra delitescit, non pecuniarum copijs euectus est, sed & suis & suorum factis illustratus.

Relata.

Nobilitas est rei nobilitata nobilitas.

Aduersa.

Nobilitas & obscuritas: nouitas & antiquitas: humilitas & amplitudo.

Priuantia.

Nobilis & ignobilis. Clarus, obscurus.

Paria.

Claritas & splendor: Antiquitas & vetustas.

Maiores, Minores.

Pulchrius est fieri, quàm creari nobilem.

Ortus præclarus est exoptandus, multò magis itaq; animus generosus, & mens excelsa.

Similia.

Ciuitas in qua nobiles non sunt, similis est ijs hortis, in quibus flos nullus est insignior.

Disimilia.

Non vt herbae vitiosae abijciuntur, ita si quis nobilis vitiosus aliqua in parte sit, spoliari debet auito nomine.

Coniugata.

Nobilitas, nobilis, nobilitare, nobilitari, nobile factum, homo nobilitatus, & virtus nobilitata; nobili loco natus, & natus nobili genere, & nobilissima familia, aut stirpe antiquissima ortus, & generosa stirpe procreatus.

Notatio.

Notatio.

Nobilitas indè nominata est, quod eorum qui nobiles sunt, nota virtus esse debeat.

Distributio ex causis.

Nobilitas in ciuitatem, familiam, gentem distributa est.

Ex effectis.

Nobilitas alia vera, orta ex clara familia, & virtutibus maiorum respondens, alia noua quidem, non adiuta maiorum gloria, bona tamen & industria, & cupida honestatis. Tertia, calida & malitiosa, quæ non virtute, sed simulatione, & falsa specie virtutis sibi nomen conatur comparare. Quarta verò quæ vitij atq; flagitij dedita est, dedecus familiæ suæ, profundens omnes opes, amittens domesticam laudem, profligata audaciæ atq; malitiæ.

Ex subiectis.

Nobilitas, vel *Græcorum* est, vel *Romanorum*, vel *Persarum*, vel *Medorum*, vel gentium aliarum.

Ex adiunctis.

Hominum alij nobiles, alij ignobiles.

Definitio.

Nobilitas est generis antiquitas, ortum habens vel à diuino aliquo principio, vel maiorum virtute præclara, humanæ societatis consensu comprobata.

Descriptio.

Nobilitas est nominis amplitudo, virtutis comes, virtute conformata, quæ breuitatem vitæ posteritatis memoria consolatur, quæ facit vt absentes adsumus, viuamus mortui: cuius deniq; gradibus homines in coelum videantur ascendere.

Testimonia.

Malo, pater tibi sit *Thersites*, dummodo tu sis

Acacidae similis, *Vulcaniaq;* arma capeffas;

Quam te *Thersitæ* similem producat *Achilles*.

Inquit *Iuuenalis*.

Nobilitas sola est, atq; vnica, virtus. Vt rectè Poëta.

Non domus dominum, sed dominus domum nobilitare debet, si fidem *Ciceroni* adhibeamus.

Thus haue we drawne this argument, Nobilitas, throught out most of the places of Logickall Inuention: which shall suffice at this time for an example of Genesis in this first part.

The first Booke.

part of Logike. Now let vs in order of Analysis, apply such arguments to this word, Amicitia, as we can readily find in the forenamed Dialogue.

Causa efficiens. Natura, Virtus.

Quapropter à natura mihi videtur potius quàm ab imbecillitate orta amicitia, & applicatione magis animi cum quodam sensu amandi, quàm cogitatione quantum illa res vtilitatis esset habitura &c.

Quod si tanta vis probitatis est, vt eam vel in eis quos nunquam vidimus, vel, quod maius est, in hoste etiam diligamus, quid mirum si animi hominum moueantur, cum eorum, quibuscum vsu coniuncti esse possint, virtutem & bonitatem perspicere videantur?

Causa adiuuans.

Quanquam, confirmatur amor, & beneficio accepto, & studio perspecto, & consuetudine adiuncta, quibus rebus ad illud primum motum animi & amoris adhibitis, admirabilis quædam exardescit beneuolentiæ magnitudo, quam siqui putant ab imbecillitate proficisci, vt sit per quam quisq; assequatur quod desideret, humilem sanè relinquunt, & minimè generosum, vt ita dicam, ortum amicitia, quam ex inopia atque indigentia nasci volunt &c.

Adiungitur etiam & rerum conuenientia, & morum similitudo, & voluntatum summa consensio.

Destruens.

Contentiones, luxurię conditiones, vel commodi, honoris ambitus, pecunię cupiditates, iniquę postulationes, morum dissimilitudo: dispares enim mores disparia studia sequuntur: quorum dissimilitudo dissoluit amicitias, &c.

Materia.

Id in quo est omnis vis amicitie, voluntatum, studiorum, sententiarum summa consensio.

Forma.

Ipsa animorum coniunctio.

Finis.

Vt vsu eius quem diligere cepèrunt, fruantur & moribus; sintq; pares in amore, & equales, propensioresq; ad benè merendum quàm ad reposcendum. Et infra.

Alios

Alios autem dicere aiunt etiam multò inhumanius, quem locum breuiter perstrinxi paulò antè, præsidij adiumentiq; causa, non beneuolentiæ neque charitatis, amicitias esse expetendas.

Effecta.

Cui potest esse vita vitalis, vt ait *Ennius*, qui non in amici mutua beneuolentia conquiescat? Quid dulcius, quàm habere quocum omnia audeas sic loqui vt tecum? Quis esset tantus fructus in prosperis rebus, nisi haberes qui illis æquè ac tu ipse gauderet? Aduersas verò res ferre difficile esset sine eo qui illas grauius etiam quàm tu, ferret. Deniq;, ceteræ res quæ expetuntur, opportunæ sunt singulæ rebus ferè singulis: diuitiæ, vt vtare; opes, vt colare; honores, vt laudare; voluptates, vt gaudeas. Valetudo, vt dolore careas, & muneribus fungaris corporis: Amicitia plurimas res continet, quoquò te verteris prestò est, nullo loco excluditur, nunquam intempestiua, nunquam molesta est.

Infra.

Nam et secundas res splendidiore facit amicitia, & aduersas patiens cõmunicansq; leniores. Cumq; plurimas & maximas commoditates amicitia contineat, tum illa nimirum præstat omnibus, quod bona spe preluceat in posterum, nec debilitari animos aut cadere patitur: verum enim amicum qui intuetur, tanquàm exemplar quoddam intuetur sui. Quocirca & absentes adsunt, & egentes abundant, & imbecilli valent, & quod difficilius dictu est, mortui viuunt: tantus eos honos, memoria, desiderium prosequitur amicorum, &c.

Subiectum.

Sed hoc primum sentio, nisi inter bonos amicitiam esse non posse.

Et

Quanta autem vis amicitia sit, ex hoc intelligi maximè potest, quod ex infinita societate generis humani quam conciliauit ipsa natura, ita contracta res est. & adducta in angustiu, vt omnis charitas aut inter duos, aut inter paucos iungeretur.

Et

Itaq; verè amicitia difficilimè reperiuntur in ijs, qui in honoribus req; publica versantur.

Adiuncta.

In amicitia autem, nihil est fictum, nihil simulatum: & quicquid

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quicquid in ea est, idem verum & voluntarium est. Et,
Vt igitur & monere & moneri, proprium est veræ amicitia, & alterum liberè facere, non asperè; alterum patienter accipere, non repugnanter, sic habendum est, nullam in amicitij pestem esse maiorem, quam adulationem, blanditijs, assentationem,

Diuersa.

Suis autem incommodis grauius angitur; non amicum, sed seipsum amantis est.

Disparata.

Quocircà, mœrere hoc eius euentu, vereor ne inuidi magis quàm amici sit.

Relata & Coniungata.

Sed vt tum ad senem senex de senectute, sic in hoc libro, ad amicum amicissimus de amicitia scripsi.

Aduersa.

Quæ enim domus tam stabilis, quæ tam firma ciuitas est, quæ non odijs atq; dissidijs funditus possit eueri?

Præuoluta.

Beneuolentia, amor, affectio, & ἀγάπη.

Paria.

Itaq; non aqua, non igni, non aëre, vt aiunt, pluribus locis vtimur quàm amicitia. Et,

Verum enim amicum qui intuetur, tanquam exemplar quoddam intuetur sui. Et,

In amicitia, eque nefas sit, turpè aliquid & facere rogatum, & imperare.

Maiora. Minora.

Apertè enim odisse magis ingenuum est, quàm fronte occultare sententiam. Et,

Quid enim potest esse tam flexibile, tam deuium quàm animus eius, qui ad alterius non modo sensum ac voluntatem, sed etiam vultum atq; nutum conuertitur?

Quod si hæc apparent in bestijs, velucris, agrestibus, natiuitatibus, cicuribus, feris, primum se vt ipsæ diligant (id enim pariter cum omni animante nascitur) deinde vt requirant atq; appetant ad quas se applicent eiusdem generis animantes, idq; faciunt cum desiderio, & cum quadam similitudine amoris humani,

humanū, quāto id magis in homine fit natura, qui & seipſe diligit, & alterum requirit, cuius animum ita cum ſuo commiſceat, ut efficiat penē vnum ex duobus?

Similia.

Eſt igitur prudentis, ſuſtinere, ut curſum, ſic impetum beneuolentiæ: quō vtamur quaſi aquis tentatis, ſic amicitijs, aliqua ex parte periclitatis moribus amicorum?

Et illud.

Veterimæ quæque, ut ea vina quæ vetuſtatem ferunt, eſſe debent ſuauiſimæ: verumq; illud eſt quod vulgò dicitur, multos modios ſalis ſimul edendos eſſe, ut amicitia munus expletum ſit. Nouitates autem, ſi ſpem afferunt, ut tanquā in herbis non fallacibus fructus appareat, non ſunt illæ quidem repudiandæ, vetuſtaſtamen ſuo loco conſeruanda eſt.

Diſimilia.

Nec enim illa prima vera eſt, ut quemadmodum in ſe quiſque, ſic in amicum ſit animatus.

Coniugata.

Plurimum in amicitia amicorum benè ſuadentium valeat autoritas.

Notatio.

Vtrumq; enim, & amor & amicitia, diſtum eſt ab amando.

Diſſio.

Sed neſcio quo pacto, ab amicitijs perfectorum hominum, id eſt ſapientum, ad leues amicitias deſlexit oratio.

Definitio.

Eſt autem amicitia nihil aliud niſi omnium diuinarum humanarumq; rerum, cum beneuolentia & charitate ſumma conſenſio.

Deſcriptio breuis.

Amare autem nihil aliud eſt niſi cum ipſum diligere, quem ames, nulla vtilitate quæſita.

Deſcriptio explicata.

Equidem ex omnibus rebus quas mihi aut fortuna aut natura tribuit, nihil habeo quod cum amicitia *Scipionis* poſſit comparari. In hac mihi de Republica fuit conſenſus, in hac rerum priuatarum conſilium, in eadem requies plena oblectationis fuit. Nunquam illum, ne minima quidem re offendis, quod

A a,

quidem

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quidem senferim, nihil audiui ex eo ipso quod nollem : vna domus erat, idem victus, isq; communis : neq; solum militia, sed etiam peregrinationes, rusticationesq; communes. Nam quid egode studijs dicam cognoscendi semper aliquid atque discendi? In quibus remoti ab oculis populi, omne otium tempusq; contriuiimus?

Testimonium.

Agrigentinum doctum quendam virum, carminibus Grecis vaticinatum ferunt, quæ in rerum natura totoq; mundo constarent, quæque mouerentur, ea contrahere amicitiam, dissipare discordiam.

Et,

Rectè *Ennius*, Amicus certus in re incerta cernitur.

Et illud.

Verum igitur illud est, quod à *Tarentino Archita*, vt opinor, dici solitum; nostros senes commemorare audiui, ab alijs senibus auditum; si quis cælum ascēdisset, naturamq; mundi & pulchritudinem syderum perspexisset, insuauem illam admirationem ei fore, quæ iucundissima fuisset, nisi aliquem cui narraret, habuisset.

Postremo

Sed nescio quo modo verum est, quod in *Andria* familiaris meus *Terentius* dicit, Obsequium amicos, veritas odium parit.

Thus much for these two wordes, Nobilitas and Amicitia. The like would I haue all Logicall Lawyers to attempt in our common Lawe. At the first it will seeme harde and troublesome : but vndoubtedly the speedy profite accompanied with a swæte delight, will sone ouertake, and quite overcome the paynes before sustained : and so much the rather, for that it is impossible; any profession whatsoeuer, to bee moze Logicall then is the Law. For profe; if you take but that little tractate of Willenage in Maister Littleton, you shall finde, if not all, yet not many lesse then all.

these arguments, bled in the same discourse,

within the compasse of eight little

leaues, whereof some bee be,

flowed on some other

matters.

THE

THE SECOND BOOKE.

Of Disposition.

THE FIRST CHAPTER.



HEtherto of Exposition of Arguments called Inuention, the first parte of Logike : Now foloweth the second, which is Disposition.

Disposition is the second part of Logike concerning the disposing of Arguments, thereby to iudge well of them : and therefore this second part is called both Judgement and Disposition.

Annotations.

THE among the Grecians, is Disposition with the Latines. So then the second part of Logike is called Disposition of the forme of the same second part, for that, as in Grammer Syntaxis being the second part, ordereth & disposeth simple words handled in the first ; so *τάξις*, Disposition in Logike doeth artificially place, settle, and dispose single argumentes one with an other, and that first axiomatically, in seuered axiomes : then, proceeding forwarde to a Syllogisme and methode, as occasion shall serue. For examples sake, this sentence, a villeine regardant is a villeine, is true English, because the nominatiue case and the verbe be placed Grammatically, according to the prescription of Syntaxis : so the same sentence is a true Logicall axiome, because the generall is affirmed on the speciall, in a simple axiome, according to Art in Disposition. Now, this second part of Logike is also called *τάξις*, Iudicium, Judgement, of the use, commoditie, and ende thereof. For that, by a certaine direction, rule, and prescription of Disposition, ariseth iudgement of the trueth or vntrueth of any axiome ; the consequence or inconsequence of any Syllogisme : and the perspicuitie or confused obscuritie of any methode or proceeding.

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The second Chapter.

Of Axiomes affirmatiue and negatiue.



Disposition is either of one sentence, called Axiomaticall: or of more then one, called Dianoeticall. An Axiome or proposition is a disposition of one argument with an other, whereby we iudge a thing to be, or not to be.

An Axiome hath two partes, the bande, and the partes bound: the band is that, which bindeth the other partes together. The partes bound, be either the former or the later. The former is that which goeth before, and is called the antecedent: the later, that which followeth, called the consequent, As

Ah God that Loue should breede both ioy and paine.

Where, Loue, being the cause and first part, is coupled, by the band, shoulde breede; with his effectes, both ioye and payne, the latter part.

An Axiome is either affirmatiue or negatiue, affirmatiue when the bande of the Axiome is affirmed. Negatiue, when it is denied, and although in English, the negation come after the bande, yet in reason it goeth before, and denyeth the bande aswell as in other languages.

From this affirmation and negation arise all contradictions, when the selfe same Axiome is both affirmed and denied, As,

Dido my deare, alas, is dead,

Dido n^r is dead, but into heauen hent, Dido is dead, Dido is not dead.

Maister Plowden. Fol. 10. b. Les statutes doyent estre construes solong; les raisons del comon ley: the negation whereof will make this contradiction, les statutes ne doyent estre construe solong; les raisons del comon ley.

Annotations.

Sicut vox *ἴδιον*, à verbo *ἴδεν*, sic *ἡ δαιμονία*, à *δαιμονίζω* dicitur. Illud verbum à nomine *ἴδιος*, meus; hoc à *δαιμονία*, mentis agitatio.

agitatio. vñs apud *Aristotelicos* est cognitio principiorum in-
demonstrabilium. *Διανοια* verò. mentis seu rationis quidam
quasi discursus, qui aliter *λογισμος*, ratiocinatio dicitur, cum
ratio ex quocunq; proposito aliud deducit, mouens se ab vno
ad aliud inuestigandum, vt præpositio declaret motus tractum,
ac transiſſionem ipsius.

[An Axiome:] The Græke worde, *ἀξιομα*, ſignifieth
dignitie authoritie. The Logicians, as it ſhould ſeeme, take
it for any thing ſpoken, pronounced, tolde, as it were, with
authority. It here ſignifieth any ſentence or propoſition
whatſoeuer, wherein one argument, reaſon, conceipt, thing,
is ſo coniointed with, or ſeuered from another, as that there-
by we iudge the one eyther to be or not to be. the cauſe, ef-
fect; whole, part; generall, ſpeciall; ſubiect, adiunct; diuers,
diſparate, relatiue, repugnant, diſtribution, definition, testi-
mony, like, vnlike, equall, more or leſſe to the other.

[Affirmatiue:] It is proper then to axiomes, not to ſim-
ple arguments, to affirme or deny: as it is to a ſyllogiſme,
to confute or confirme. Affirmatio & negatio enunciati, nihil
aliud eſt quàm partium compositio & diuiſio.

[The bande:] The bande in a ſimple axiome is alwaies
a verbe: but this verbe is ſometimes put betwene the two
arguments, ſometimes of it ſelfe it ſupplieth the place of the
ſecond argument, as will appeare if you reſolue ſuch impli-
cate propoſitions thus, Plato diſputeth learnedly, Plato is a
learned diſputer.

[Contradiction:] In our Trauerſe, which tooke name of
the French Trauerſe (that is de tranſuerſo, on the other ſide)
there is alwaies a manifeſt example of an exact and Logical
contradiction betwene two axiomes, the one affirming, the
other denying the ſelfe ſame thing that was affirmed: See
Maſter Lambard Juſt. lib. 2. cap. 13.

Homme n'auera expreſſe auerment encounter le retourne
del vicount, quia il eſt officer al court, itaq; le court doit do-
ner credence a luy. Des ſi le vicount retourne attache, le party
dira encounter ceo, nyent attache per 15 iours: iſſint ſ'il re-
turne, que le ten. eſt ſummons, le tenant poet dire, nyent
ſummons ſolong; le ley del terre, car ceo ne trauerſe expreſ-
ment.

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ment le retourne del vicount, mes estoit oue ces assés bien
sans aucun contradiction.

Vide 1.H.6.8.Rolf. Enseint et nyent enseint, bon issue.

The third Chapter.

Of a true and false Axiome.



Secundarily, an axiome is either true or false. True, when the thing is euen so as it is sayde to be: false when contrarily: and here according to the affection of the arguments, we must graunt the true, and deny the false, absolutely.

Both these be eyther Necessary, or Contingent. Necessary, when an axiome is eyther true or false without exception: (yet to a generall axiome, exceptions may be added to make it generally true.)

What euer wanteth changeable rest,

Must needs decay when it is at best. This is necessarily true, and his contrary, necessarily false, so this:

There is no greater estate, then six-simple. Contingent is, when it is true in such sort, as it may be false, or so false, as yet it may be true. As,

Great climbers fall vnsoft. This is doubtfull and contingent.

So Maister Plowden: Fol. 50. Femmes facile sont illudes et entice al coupne: For although some great climbers haue great falles, and many women be seduced, yet oftentimes it falleth out, that many of the first escape from falling: and more of the second preuent illusions. Here we must neither absolutely affirme nor deny, but distinguish. The iudgement which we can haue of this Contingent or doubtfull Axiome, is called Opinion, which in things already past or present, may be certeine vnto man; but in things to come, it is altogether vncertaine, although to God there is no such difference of things in respect of time, to whome all things be present.

All preceptes of Artes are or ought to be necessarily and alwayes

alwayes true without exception, and so rules of truth: but besides this, they must also be rules of iustice, as it were, and also of wisdome or discretion, or compendious brevitie.

A rule of iustice is an axiome which giueth vnto euery thing his owne, in coupling those thinges together which agree naturally, wherein vsually are disposed together, the sozmall cause and the thing formed; the generall and his speciall; the subiect and his proper adiunct.

A rule of wisdome, discretion, or brevity, is an axiome wherein the arguments disposed may be mutually affirmed one of another. So that, as the later is verified of the former, so the former may be of the later. The iudgement of these three kindes of axioms is most certeine and infallible knowledge.

Annotations.

The first rule which Ramus calleth a rule of truth is feared of the Grecians *ἡ ἀληθεια*, of the Latinists, *de omni*, because it is absolutely and in most generall manner pronounced of all, without any exception. And it must be affirmative. For a negation doth but deprive and take away; and not imprint in mans minde the knowledge of any thing certainly. So that no negation, although it be generally true, is fit to make any precept of art, exactly put downe: whose duty is, to teach truth; not vnteach vntruths, or to tell what is not true. Therefore sayth Aristotle, an affirmation is more honourable then a negation.

As a true axiome is eyther contingent, or necessary: so the false axiome in like wise is eyther variable, or els necessarily false, that is impossible. For, the necessary false hath a proper and distinct name, to wit, impossible: but the necessary true hath no seuerall name: but is called necessary, by that generall word.

The second rule of artes is the rule of iustice: so called of Ramus, for that according to the nature of iustice, in this axiome euery argument hath that adioyned vnto it which is by naturall right, his owne, as the forme his thing formed, the subiect his owne proper adiunct, the generall his speciall: examples whereof I thought it nothing necessary to heape vp

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in the text, for that in the chapters of the forme and formed, subiect and adiunct, generall and speciall, they are already discoursed vpon: and there wanteth nothing but the putting of them together in an axiome, which may some bee performed by the direction of rules of axiomaticall iudgment. This rule is called in Græke καὶ αὐτὸ, in Latine, per se: for that both the argumentes in this kinde of axiome, bee essentially and by themselves, their owne nature, force, power, vertue, and inclination linked together. Of these Latine words, per se, Paulus Venetus, and other schõlemen, haue framed this dunsical word of art, Perseitas, and therof made many kinds, and long discourses.

The thirde and last rule, is named of Ramus, the rule of wisdom or discretion; of the effect which it worketh in vs, which is wisdom, sayth Rodingus. For, then onely are wee wise, then onely haue wee the perfect knowledge of any thing, when wee know it by the first causes, that is, by such which are immediate, equall, neyther higher, nor lower, neither too generall, nor too speciall, but iumpe, sit, meete, that is, first, and therefore reciprocal: and this is performed by this rule. This rule is therefore the rule of wisdom; teaching generall things in their due place, once, and generally: Speciall things in their conuenient time and order, specially, with their seuerall specials. Whereas, if a man teach a speciall thing generally, in generall, and in a generall place: or a generall thing in speciall, specially, and in a speciall place, hee shall bewray his folly and want of discretion in troubling the auditors with his grosse error, and tedious Tautologie: Error, in applying a speciall and peculiar thing to a general and vniuersall matter: Tautologie and bayne inculcation of the same thing, in repeating that many times confusedly, which both might and should haue bene taught but once, and distinctly. For if I teach a generall thing specially, that is, in a speciall and inferiour place, I must of necessity repeat that so many times, as there bee speciall things to which it is applyable, because I left it out in the beginning: whereas if I had put it downe generally, in his higher place, aboue his specials, this once putting downe had sufficed for all: because it

it is placed as a generall; and euery generall includeth the whole societie of his specials, and to euery of them is equally applicable, by the order of art and nature.

The Grecians call this rule, καθ' ὅλου πρῶτον: the Latines, vniuersaliter primum. καθ' ὅλου πρῶτον, is then, as I said before; when in an axiome, both the argumentes ioyned together be iumpe, sit, make, first, equal and therefore reciprocal: equall I call them, which are as generall or special, the one as the other: so that the one containeth no more then the other, neither is the one higher then the other, such an one is this, A man is apt to laugh: A man is reasonable: A villeyne is either, in grosse, or els regardant: Logike consisteth in Inuention, and Disposition: Logike is an Arte of reasoning, for here either the definition and the thing defined, or the subiect and his proper adiunct; or the forme and the thing formed, or the generall and his specialles, or els whole and partes be ioyned together. Such as these, be according to this rule, καθ' ὅλου πρῶτον. And it is so called because the second part of the axiome (in this, A man is apt to laugh) is verified of no other thing before man in generall, but first of man, then secondarily of singuler men, as Plato, Socrates, &c. and whatsoever is thus spokē first of the whole antecedent, must needs be reciprocal with the same antecedent. Whereupon, I say, was it called καθ' ὅλου πρῶτον, vniuersaliter primum.

Prima regula, sayth one, falsos; secunda peregrinos; tertia nimis elatos aut abiectos ciues ē ciuitate philosophica excludit. The first excludeth all false and lame preceptes, which if it were obserued in our lawes, then all repugnant dreames of Serieantes and Counsaillers that serue the time and speake for money shoulde not runne so currant for good law: nay euery iudgement geuen either without reason, or with partialitie, shoulde not stand for Justice: euery Semble, shoulde not passe for a sentence: nor euery Dictum fuit, for a Dictators constitution.

It is not necessary that euery axiome παντος, should be general, saith Scribonius, for, in astronomie, there be many particulars, but it is therefore called De omni, for that it is

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necessarily true, with affirmation, without exception. Yet a general rule with his particular exception is *ἡ παρρησία*, nam exceptio non solum restringit regulam, sed etiam confirmat.

The second rule reiecteth all impertinent matters which are not coherent, nor sutable to the proposed argument, but discrepant and disagreeable, as precepts of Rhetorike among axiomes of Logike, as in a discourse ofARRANTIE. to talke of Rickhils remainders: in a chapter of releases, to lay downe the pleading in a writ of right: in the explication of conditionall estates, to declare the nature of a deed indented, and a deed polle: among the preceptes of tenants in common, to cast in peeces of releases; as the custome is among little grand mortemen, who cast case vpon case, as Carters do billets vpon billets, and soz euery collaterall trifle, run ouer all the 633. titles of Brookes abridgement.

The third rule, as it is in practise hard, so in obseruation it is most commendable, and if it be violated, it argueth a most grosse oversight in the vnskillfull artificer. As if a professor of Logike should say, that a cause is euer inherent, or, as it were, ingrauen in, and together with the thing caused; this were absurdly spoken, soz in teaching a speciall thing generally, he applyeth that generally to all causes, which is appropriate naturally to one cause, and onely one cause, I meane the forme, which is alwayes inherent in the things formed, and imprinted in the same, whereas other causes be not so. Agayne, if the same Logicall Doctor should say, that the materiall cause were the fountayne of all knowledge, or should affirme the same of all the other kindes of causes specially and in generalty, he might iustly be reprehended soz a double fault, the one, soz making a generall adiunct be restrained and tyed to one peculiar subiect: the other, soz vaine repeating that in diuers specials, which was in generaltie to haue bene layd downe but once soz all. There is in effect no part of our Law that euer was ordered according to this rule: yet it appeareth that the founders of our Law had a liking thereof, in that they detested the contrary vice. Car nous epomus vne erudition, que si home ad brieve framed in le Register pur son speciall case, prater le generall brieve, et

il bſe le generall bziefe pur ſon ſpeciall caſe , ceo bziefe abaterā. Et vide 7. H. 7. In treſpaſſe per le baron et ſeme, et count del treſpas ſayt al ſeme dum ſola fuit , ceo abaterā le bziefe. 7. E. 6. 80. Dyer.

Aristoteles affectiones has tres ad propositiones ſyllogiſmi Demonſtratiui reſtrinxit, ſed *Ramus* eas ad omnia artium precepta rectius accomodauit. In *Logike*, ſaith *Scribonius*, we are not to giue peculiar preceptes ſit onely to put dōwne arts (as *Ramus* in this place ſeemeth to dō, where hē maketh the ſoſeſaid rules of Truth, Juſtice, and Diſcretion, proper and peculiar directions ſo; the conſormation of arts) but generall ſo; Ens, and non Ens. So that hē would haue no mention made of the conſtitution and framing of artes purpoſely and ex profeſſo, ſo; that were impertinent, but onely obiter, and by the way, in manner of a *Cozollary* o; *Conſedary*, that it might bē the moze tollerable and Homogeneum, that is, the moze ſutable and coherent. And ſo I make it here no diſtribution at all, but onely a *Cozollary*.

Impoſſibile quadruplex, ſayth one, Naturæ, vt cœlum digito attingere; Iuris, quod bonis moribus & rationi repugnat: Contradictionis: Facti; hinc impoſſibilem nulla eſt obligatio, the like whereof is in *Parkins* and diuers yeare bookes.

The fourth Chapter.

Of a ſimple Axiome.

Thus much of the common proprieties of axiomes, the ſpecials follow.

An axiome is either ſimple o; compound: Simple is that whole partes bē coupled together with a verbe.

In July. They beene yclad in Purple.

Paſſer Plowden. Fol. 497. a. Le pzio; de. ſ. *Iohns* auoit l'eſtate del templers.

In Nouember. *Dido* n'is dead.

Plowden. Fol. 5. a. Ex nudo pacto non oritur actio, And this is the firſt diſpoſition of argumentes inuented.

W b. ig.

In

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In the first affirmatiue example, the former part is the subiect: the later the adiunct: In the first negative, Dido, the former part, is opposite vnto deade, which is the later parte: and deade is opposite vnto Dido, which is the former parte.

And as we see in these examples the disposition of agreeable argumentes, as of the subiect with his adiunct in the first: and of disagreeable argumentes, as of the opposite with the opposite in the last: so we may dispose after the same manner all argumentes agreeable and disagreeable: alwayes affirming the agreeable, and denying the disagreeable: except distributions and full comparisons, such as haue three or foure termes or partes, and therefore cannot be disposed in a simple axiome, but in a compound.

The simple axiome is eyther generall or speciall: Generall is when the later parte is generally referred and attributed to the former. And in general axioms, one of them contradictory to the other, is not alwayes true or alwayes false; for if they be both variable, they may be both false, as,

All that is lent to loue will be lost.

Nought that is lent to loue will be lost.

Chescun tuer d'un home est prohibite per le ley.

Nul tuer d'un home est prohibite per le ley.

As also if they be not variable, as here:

Euery creature is reasonable.

No creature is reasonable.

Chescun Custome est ground sur reason.

Nul Custome est ground sur reason.

The speciall axiome is, when the consequent or later part, is specially attributed vnto the antecedent or former parte, not generally: whereof one being contradictory to another, is alwayes true, or alwayes false.

The speciall is eyther particular or proper: Particular, when the later part generall is attributed vnto some of the former, but without any certaine limitation, and to this the generall is contradictory.

In May Piers, of shepheards.

Some gan to gape for greedy gouernance,

The generall contradictory whereof, is,

None

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None gan to gape for greedy gouernance.

Ascunes mynes font royall

Null mynes font royall

The proper Ariome is when the latter part is attributed vnto the former, being a proper, singular, or one thing.

Diggon in September.

Indeede thy Ball is a bold bigge curre,

Whose negatiue and contradictionary, is

In deede thy Ball is not a bold bigge curre.

John vane Salisbury tue l'honne feloniousment,

John vane Salisbury ne tue l'honne feloniousment.

Annotations.

The iudgement of this simple ariome is moſte naturall, but in part common to brute beaſtes aſwell as to man, as in all ſingular matters compriſed in the ariomes called proper. For as Aristotle teacheth in the ſecond of his demonſtrations, every ſenſible creature hath a naturall power and facultie of iudging, which is called ſence; & this ſence 2. Topic: is of him ſayde to bee a certayne kinde of iudgement: and without doubt, the ſence is a moſte vpright iudge of ſuche thinges as are properly vnder his iuriſdiction, as the ſight of colours, the hearing of ſoundes, the ſmelling of ſmelles, 4. Metap.

This iudgement of the ſences is moze exact and erquiſite in ſome ſortes of beaſtes, then it is in man. For although man doe ſurpaſſe other creatures in tutching, yet the Eagle ſeeth moze clearely than hee, the Vultur ſmelleth better, and the Mowld heareth ſooner, as *Plynie* repozteth in the ſecond of his naturall hſtorie. So that the iudgement of a ſimple ariome is not altogether proper and peculiar to man onely, but that of the generall ariome is mans alone. For although it ſeeme that beaſtes haue ſome little ſparkes of reaſon, as Aristotle in the ſecond of his Phyſikes ſpeaketh of the Spider and the Ante, wherevnto Galen alſo ſeemeth to yelde, yet in truth this iudgement is nothing els in them, but only the fantaſy or imagination of ſenſible notions, neither can any beaſt conceiue any generall. And though Epicurus did ſo much abaſe mans dignitie, as to attribute the ſouereigne iudgement.

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iudgement and determination of all thinges vnto sence, not vnto reason and vnderstanding, yet wee know what an infinite & vnspcakable capacitie mans soule is indowed withal, how farre the general is more honozable then the singular, & how wonderfully mans minde woꝝketh of it selfe alone without any helpe of sence, whatsoeuer be objected by that sensuall, or rather sencelesse and brutish Philosopher Epicurus.

[And in the generall, one of them contradictory to the other, is not alwayes true or alwayes false:] this is false, sayth Scribonius, therefore we must say thus,

All that is lent to loue will be lost:

Not all that is lent to loue will be lost.

For, saith he, the generall nature of a contradiction is, to diuide betwene truth and falshode. But there is a generall kinde of contradiction in propositions or axiomes. When two generall axiomes are so opposed the one against the other, as what the one doth affirme, the other denieth of and in the selfe same thing, and these can neuer be both true, but they may be both false. This general contradiction is of Aristotle called a contrarietie in axiomes by a distinct name and title, not a contradiction.

An other kinde of contradiction there is which is special, and is called by the generall name, a Contradiction, not a Contrarietie, when y^e one is a generall affirmatiue axiome, the other a particuler negative, or contrariie: which indeede as Scribonius saith, can neuer be either both true or both false; Thus then wee see the cause of this reprehension, what it is and how much woꝝth. The diuers acceptation of this woꝝd, Contradiction, caused an erroꝝ, and this erroꝝ a needles reprehension.

Et quia quidam, recognitorum modo comparentium non fecerunt visum, & quidam non venerunt ideo iurata remanet vsq; ad proximam assisiam. Ceo fuit erroꝝ per troyz Justices, car l'un part del recoꝝde est contrariant al autre: car per le p^{re}mer parcel, s. quia quidā recognitorum modo comparentiū; l'apparance de tous est affirme: et in le second part, s. & buidam non venerunt, le non apparāce del parcel des Juroꝝs est

est affirme, sic contrariant, s. omnes Iuratores venerunt (car comentq, le generall note, Omnes, ne soit la mise, vncoze est include et implye solong; cest opinion :) & quidam Iuratores non venerunt. 22. E. 4. 16. 17.

33. H. 6. 26. b. Prifot. Le bziese est repugnant en luy mesme, s. quod cum ipse habeat quoddam Cheminum ratione tenuræ suæ ad ecclesiam de D. le des. leuauit quendam murum, per quem murum Cheminum habere non potest. Quant il reherce coment il ad vn chemyne in le p̄emis del bziese, et in le perclose, il reherce, quod habere non potest, nisi ita exposnas, habeat de iure, habere non possit de facto.

A generall :] Axioma generale esse potest, etsi nullum symbolum generale adijciatur, cuiusmodi sunt omnis, nullus, &c. Itaq; sententia axiomatis consideranda est, sic, Malus vsus abolendus est, generale est axioma. In euery general axiome both the former and later part must bee a thing generall and common to many : and also the later part must bee generally attributed to the former part, that is to say, to all the nature of the former parte, and to all thinges conteyned vnder the same former part.

A simple axiome, sayth Piscator, is generall or speciall : generall is vniuersall or particular : vniuersall eyther definite, as euery man is reasonable, or indefinite, as man is reasonable : But Ramus expelleth that vncerteine and indefinite axiome ; for euery concept of the mind is determinatly eyther generall or speciall, and speciall, eyther particular or singular, as in that axiome vttered by Hanck, 11. H. 4. 47. Damnum potest esse absq; iniuria, the sence is determinate, that aliquod damnum est absq; iniuria, as in that case of the three scholemaisters, where the thirds diligence withdoze we all the schollers from the other two.

As for those which they call Subcontrarias ; or vnder contraries, they make no true contradiction. For they may bee both true : nay they rather make an argument of partition. For, these axiomes :

Some men be lawyers,

Some men be not lawyers.

We nothing els but a distribution of men, as if a man

Cc,

shoud

The second Booke.

should diuide men into two partes, whereof the one should bee lawyers, the other shoulde bee no lawyers: and these axiomes may bee both true.

The other that are called Subalternæ, bee both affirmative, or both negative, the one being generall, the other his speciall: so that they make an argument, of the generall to his speciall: As,

Euery knightes seruice dyalweth with it gard, mariage, and reliefe.

Some knightes seruice dyalweth with it, gard, mariage, and reliefe.

Equipollence is Grammaticall, Brian in 11. H. 7. 23. intangleth a plaine case with this obscure sophistry of Acquipollentia. Conuersion of propositions turneth good axiomes many times out of their wit: whatsoever is good in it, is set either from reciprocation in argumentes, or from syllogismes: De modalibus, they say, Non gustabit asinus: Let fine headed cloysterers loue them, fine riuall: they bee nothing but additions of seuerall affections of argumentes in an axiome. Suppositions are built rather vpon idle supposals of scholermen, then grounded vpon any sure foundation of naturall experience. For these and all like these, no more, but this, As good they were neuer named, as cuer be leued.

The fift Chapter.

Of the congregatiue Axiome.

Hitherto of the simple axiome. Now followeth the compound. The compound axiome is that whose parts bee coupled together with a coniunction, and the partes of the contradiction are alwayes one of them true and the other false. Here the turning of the parts is very vsuall.

The compound axiome, according to the nature of hys coniunction, is either congregatiue, or segregatiue. Congregatiue is that which gathereth or completh together the agreeable

able and disagreeable arguments, affirming the one, and denying the other.

The congregatiue is eyther copulatiue, or conneriue: copulatiue is that, whose coniunction is copulatiue, as that of Thomalyn in July.

But shepheard mought be meeke and milde,
well eyed, as *Argus* was:
With fleshly folly vndefilde,
and stout, as steede of brasle.

*Paister Plowden. Fol. 75. b. Affises sont le plus spèdey
suites que le ley done. Et le ley plus grandement ceur fa-
uour, et fauour auxi les choses que sont spède et expédition
en ceo, et abhoire tous delayes que sont en retardation del
affises.*

The negation and contradiction is,
But shepheard mought not, &c. And
Affises ne sont, &c.

The true iudgement of this copulatiue axiome dependeth
on the truth of euery part: for if all the partes bee true, it is
then a true axiome: false, if any bee false.

Hæreunto must bee referred full comparisuns and simili-
tudes, wherein the coniunction is the very relation it selfe,
as, Colyn in January.

And from mine eyes the drizzling teares descend,
As on your boughs the yficles depend.

Hære the iudgement is compound, as if hæ had sayd, the
yficles depend on your boughs, and the teares fall from myne
eyes.

The contradiction of these, are the denials to euery part.

Annotations.

Comound:] the worde, hypotheticall, which is hære
commonly vsed, is neither proper nor fit for this purpose.
For, in absolute copulatiue and discretiue axiomes, there is
no *Uti. Itis*, no condition at all.

Whereas I haue already oftentimes in this second booke
vsed these wordes, a Verbe, and a Coniunction: it is to be vn-
derstande, that I meane not the naked wordes: (for that were

C. y.

Gramma.

The second Booke.

Grammaticall, and belonging onely to speech : not Logicall, and pertainyng to reason:) but the verbe and coniunction of the minde, wit, and reason : which indede is commonly, although not alwaies , exprest by some such Grammaticall Verbe and Coniunction.

The negation in a copulatiue axiome is not the denyng of the parts conioyned ; but the denyng of the conioynng of the parts : As thus,

Shepheardes must not be both meeke and milde , and well eyd, and vndefil'd, and stout, altogether.

Q. An copulatum axioma sit sine notis copulatiuis, vt *Titius, Meuius, Decius* heredes sunt.

In 22. E. 4. 32. In dett sur le custome de Londres de foraine reine attachement, le def. pleade en barre, vn copulatiue, s. le record del recouery, et auxi le custome de Londres, le pl. traaverse l'un part, s. le custome, et est troue faur per certifficat, ergo tout est faur, car le nature d'un copulatiue, est que si part de luy soit faur, tout serra faur. Bryan.

Legulei aliquando accipiunt. Et, pro, aut, & contra. Vt, home bargain ou vende sa terre a vn auter, et conenant de faire vn bone et suffisent estate in se simple al bargainé et ses heyes in le terme de s. Michael, procheine; et deuant le terme de s. Michael, le bargainé moult, hic le bargainé noz poet et doyt sayre estate in terme de s. Michael al heye le bargainé : et vncoze les parolles fueront, que il fairoit estate al bargainé et ses heyes : hic, et, est prise, pro, aut. Sed barbarismus imperitorū ne doit estre preiudiciall al art.

In omni composito axioma, præter discretum, duplex est modus contradicendi. Primo, cum contradicitur vinculo compositionis, & tūc contraditio diuidit verum & falsum, vt *Esopus* & ingeniosus fuit & formosus, *Esopus* non & ingeniosus fuit & formosus. Secundo, cum contradicitur compositi partibus, vt *Esopus* fuit & ingeniosus & formosus, *Esopus* nec ingeniosus fuit, nec formosus, & tūc non diuidit verum & falsum ait *Piscator*.

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The sixt Chapter.

Of a connexiue Axiome.



Conneriue Ariome, is that, whose coniunction is conneriue, as, Hobbinoll in June.

Then, if by me thou list aduised be,

Forfake the soyle that so doth thee bewitch.

Maister Plowden Fol. 11. b. Car en 2. R. 2. in trespassse, il est tenuz come vn mayne, que si aucun home ad interest a aucun chose per le graunt ou assent d'un auter: et le partie que ad tiel interest, ne poet auer le principal chose sans faire auter chose, que il poet faire le dit auter chose, et ceo iustifier, ce que il est le meynes a uener a son profit.

Whose contradiction is, though thou be aduised by mee, yet thou needest not forsake the soyle &c. And, comentq; il ne poet auer le principale chose sans faire auter chose, vncoze il nauera ceo &c. For, the affirmation signifieth, if the former part bee true, then the later must needs follow; wherefore the negatiue and contradictoꝝ must bee thus: if, or though the antecedent bee graunted, yet the consequent doth not necessarily follow.

Wherefore when wee iudge the conneriue axiome to bee absolutely true, wee iudge it also to bee necessary. Albeit the necessitie ariseth onely of, or dependeth vpon the necessary coupling together of the parts: which may bee when as, notwithstanding, both the parts seuerally disposed are false, as in the first example: for neyther did hee leaue the soyle, nor follow Hobbinols counsaile: which counsaile if hee had followed, then must hee necessarily haue left that countrey: for this was his counsaile.

The iudgement of this axiome is certeine knowledge, when the connerion of the parts is necessary, but if the parts be variable, and the connerion onely probable, then our iudgement thereof is onely an opinion.

In May the gate to her kiddy:

Thy father had he liued this day

To see the braunch of his body display,

C c. iij.

How

The second Booke.

How would he haue ioyed at this sweet sight?
Whitherto must bee referred that relation which is expressed by an aduerbe of time.

In December.

Whylom in youth when slowrd my ioyfull spring,
Like swallow swift I wandred heere and there.

As often as thy brother offends, so often forgiue him.

Maister Plowden: Fol. 541. Quant diuers choses sont
dit a vn mesme instant, et l'un ne poet prendre effect sans
auter; le comen ley aiudgera ceo de preceder et ensuer, en
feasant lentent de parties de prendre effect.

Annotations. Elenchs.

The other ariomes are not so easily abused as this. For
here the negation is of no force at all, vnlesse it be directly
referred to the band which is a coniunction. Therefore
although a man might thinke this to bee a Negation.

If *Dido* liue, she is not dead:

Yet indeede, it is an affirmation, whose negation should
bee thus.

Not if she liue, therefore she is not dead, or, it doth not
solow, that if *Dido* liue, therefore she is not dead.

Beurhusius giueth this Canon, which seemeth strange to
many. There may bee an affirmation, though both the
partes be denyed, as, if hee bee not industrious, hee will not
bee learned.

This is Beurhusius his example: the like whereof is this.

If hee bee not in London, hee is not in Cheapefide. Ista negatio
equipollet affirmationi, s. hee that is out of London, is
out of Cheapefide.

And vnlesse this bee graunted to bee an affirmatiue
ariome, there will be a very good syllogisme made of onely
Negatiues, contrarily to the common receaued verse: for,
I can very well reason thus.

If it bee not in London it is not in Cheapefide:

But it is not in London, therefore

It is not in Cheapefide,

A conneriue ariome is that also in Maister Plowden:
Fol.

Fol. 10. b. Et il y ad vn principall ou foundation en le comen
ley pur construction des parolles, ou clauses, ou sentences,
s. que en chescun graunt, ou done, si les parolles soyent am-
biguons et doubfull, que ils ferra prise plus fort enconpter
les grauntors ou donoys, et plus beneficiall a ceur as queur
le graunt ou done suit sayt.

[Connexion onely probable:] Contingens est connexio,
quando partes pro sua probabilitate tantum ponuntur, id est,
neq; absolute consentiunt, neq; plane dissentiunt. Itaq; etiam
axiomatis veritas ex argumentis siue rebus dispositis, non ex
sola connexion dependet: si enim necessitas ex sola connexi-
one esset, omnis connexio esset necessaria, quod nemo dixe-
rit. *Wasserleider.*

[Aduerbe of time:] Fit. cor. P. 385. P. 15. Quant le de-
fendant pleda al appelle de rien culpable, prist a defender per
son corps, il doyt getter son gaunce in le court, &c. The same
force is in an aduerbe of place in our law, as in that of 1. H.
5. 3. per Hull. Lou vn home demande certeine chateur, et per
son bziese est proue, que le property est deueltue de son pos-
session per le prise, la il couvent a luy de metter le prise. Here
these words, lou and la, bee in sence no moze but, if, and then,
or when and then.

Connexum duobus modis negatur: simpliciter quando ne-
gatio preponitur coniunctioni; apertius, quando inconse-
quentia etiam exponitur; vt si dies est, lucet: non, si dies est, lucet.
Et si dies est, non ideo lucet, vel non sequitur lucere. Itaq; non
satis accurate *Boetius* dicit, ad consequentem propositionem
respicendum esse, vt affirmatiua vel negatiua, propositio con-
nexa iudicetur: vt, si est A, est B: affirmatiua est, ait *Boetius*:
si est A, non est B; negatiua: at, inquam, tam est affirmatiua
secunda propositio hæc, quam illa prima. Deceptus est autor
huius dogmatis dissensionis specie, quia illa enunciata dissen-
tiant, nec simul esse vera possent, ideo contradicentia putauit.
At contradictio est affirmatio & negatio eiusdem de eodem.
illic, si est A, est B; affirmatio est consequentis affirmati de an-
tecedente affirmato: hic, si est A, non est B, affirmatio item,
sed consequentis negati de affirmato antecedente: at affirma-
tio affirmationi non contradicit, licet opponatur alio genere.

Connexius:

The second Booke.

Conneriue axioms be called Conditionall: of these there be infinite in our lawe, as may appeare by the large titles and discourses of conditions in Littleton, Parkins, Fitzherbert and Brooke. *Conditio, saith one, triplex est: concipitur enim aut in præteritum, præsens, aut futurum. In futurum conceptæ sunt possibiles vel impossibiles. Possibiles sunt vel simpliciter voluntariæ fortuitæq; (vulgò potestatiuæ & casuales dicuntur) vel mixtæ.*

The seuenth Chapter.

Of the disiunctiue Axiome.



The segregatiue axiome is that whose coniunction is segregatiue, and therefore is fittest to dispose disagreeable arguments, which must be seuered.

The segregatiue is eyther Disiunctiue or Discretiue. Disiunctiue is that whose coniunction is disiunctiue, wherevnto is referred the distributiue. These are fittest to dispose repugnant arguments, and diuisions of two partes.

In September.

Diggon Dany I bid her good day.

Or *Diggon* her is, or I mislay.

Touts mynes sont royall ou base mynes.

Here the contradiction doeth not make the partes necessarily true or false: for if the disiunction or separation be true absolutely and also necessarily without any thirde thing put betwene, then the whole axiome is true and necessary, notwithstanding the speciall partes by themselves considered may be contingent, as here:

Or *Diggon* her is, or I mislay.

The disiunction is necessary; & yet *Diggon* her is, is a contingent axiome; also, *I mislay*, is a contingent axiome. But the necessitie of the disiunction dependeth on the necessary opposition or disiunction of the parts, not on the necessary truth of the partes. If therefore the disiunction be but contingent, or
vpon

upon a supposition, then it is not absolutely a true axiome, as when Lxander sayd, he would either bee drowned or haue his desire. Otherwise the iudgement of this axiome, when the opposition is necessary, is a certaine knowledge.

Annotations.

Piscator ait axioma disiunctiuū præponendum esse discreto, vt copulatiuum prius est connexo. Nam in copulatiuo & disiunctiuo, pars altera notio simplex est, altera verò notionum complexio; at connexi & discreti vtrâq; pars tum antecedens tum consequens non simplex notio est, sed notionum complexio enunciatiua.

Idem *Piscator* putat axioma disiunctiuum differre à distributiuo. Nam disiunctio est qua partium disiunctarum vna aliqua pro vera asseritur, ita vt cæteræ res sint falsæ, scilicet, cum partes de specie aliqua eius generis, ad quod partes propriè pertinent, enunciantur, vt *Socrates* est rationalis, aut irrationalis, sanus aut æger. At distributio est, qua partes enumeratæ omnes pro veris asseruntur, vnaquæq; cum toto quod distribuitur, particulariter disposita, scilicet cum partes de ipso genere aut integro, ad quod propriè pertinent, enunciantur, vt animal aut rationale est aut irrationale, aut sanum aut ægrum, ac si dicerem, animalium aliud est rationale, aliud irrationale, aliud sanum, aliud ægrum.

[Lxander:] the verses be these;

Aut mihi continget foelix audacia saluo,

Aut mors solliciti finis amoris erit.

Lease fait pur ans, payant annuellement xx. s. ou vn toge.

This, as also the whole title of Election dependeth on this disiunctiue axiome. The difference is now when it is but for once, or when continuall; if continuall, eliget grauntoz &c. Vide 9. E. 4. & 17. E. 4.

Congregare, segregare, copulare, connectere, discernere, disiungere, be Latine wordes, yet by vse made English. I neede not make any interpretation of them.

The necessitie of the disiunctiue axiome, as is said before, dependeth of the necessary opposition of the partes, not of the necessary truth of the same. Which thing beeing not conside-

ed.

red,

The second Booke.

red, caused not onely Epicurus, who was but a dunscall Logician, to be deceiued, but those also who thought themselves great experienced men in this profession, as Chrysippus and Diodorus: for they imagined that if the disjunction were necessary, then the one or the other part of the axiome should be also necessary, and into the same error both Tully himselfe fall in his booke de fato.

Elenchs.

With the disjunction is not necessary, but when the partes haue no third thing betwene, this axiome is false when wee thus say, *Paris* must needs eyther walke or daunce, for hee may aswell holde his peace and stand still. So this, Every francktenement is eyther feesimple or feetayle, for there bee other freeholds, as pur terme de vie, and pur autre vie.

The eight Chapter.

Of the Discretiue Axiome.

The discretiue or discerning axiome is that whose coniunction is discretiue. Wherefore of disagreeable argumentes it is fittest to dispose those that are diuers and differ onely in respect.

In December.

But ah vnwise and witlesse *Colin Clowr*,
That kidst the hidden kinde of many a weede,
Yet kyds not one to cure thy sore heart roote,
Whose ranckling wound as yet doth rifely bleede.

Maister Plowden: Fol. 82. a. Car parols, que ne sont que le verberation del aye, ne sont lestatute, mes solement l'image del statute.

This axiome is iudged to be true, when the partes be not onely true but diuers also the one from the other: false and ridiculous, when otherwise.

Annotations.

Dissentanea argumenta etiam congregatio axiome enunciari possunt, vt mel & dulce est & flauum, hic diuersa enunciantur congregatio copulato. Quin & simplici etiam axiome

mate diuerſa enunciari poſſunt, vt ſlauedo mellis non eſt dulcedo eius.

Vt occupatiua axiomata non admittunt contradictionem, ita nec diſcretiua; ſed illa apta ſunt ad reſpondendum & contradicendum conſequentibus falſis enthymematum illorum hominum quibuſcum loquimur: hæc ad contradicendum enunciatis copulatis ex parte falſis, vt *Aeſopus* & ingenioſus fuit & formoſus, hoc falſum eſt ex parte poſteriore: Si ergo hanc falſitatem velim oſtendere contradicendo, non ſatis erit negare copulationem, ſic, *Aeſopus* non & ingenioſus & formoſus fuit. Hinc enim nondum liquet, vtram partem falſam putem: inſtituenda eſt ergo diſcretio ſic, *Aeſopus* non fuit illè quidem formoſus, ſed tamen fuit ingenioſus, & hic ſolus eſt diſcretorum vſus.

Enunciata per, quanquam, et, tamen, videntur $\pi\omicron\lambda\eta\tau\iota\chi\alpha\varsigma$, non $\lambda\iota\alpha\kappa\epsilon\tau\iota\chi\alpha\varsigma$, vt,

Hic *Priamus*, quanquam in media iam morte tenetur, Non tamen abſtinuit &c. Vbi *Virgilius*, nihil diſcernit, ſed lectoris cogitationi occurrit, & contradicit, nam lector videns *Pyrhum* armatum, facile obijceret, *Priamus* non audere loqui. Occurrit itaq; *Virgilius* & dicit, quanquam &c. Non tamen &c. Hic eſt ſolus horum vſus. *Piſcator*.

Elenchs.

It is a ridiculous diſcretiue axiome wherein ſuch things are ſeuered, which naturally go ſo together, as that they can not ſomuch as be ſeuered in reſpect, much leſſe in dæde.

The ninth Chapter.

Of a Syllogiſme and his partes.



Thus much touching the diſpoſition and iudge-
ment axiomaticall, or of one axiome. Now ſol-
loweth the diſpoſition of moze then one which
is called Dianoeticall.

The diſpoſition Dianoeticall is, when one
axiome by reaſon is inferred of another, or drawne out of an
other, and then it is called eyther ſyllogiſme or methode.

¶ D. 4.

¶

The second Booke.

A Syllogisme is a disposition of three axiomes, whereby
or wherein a doubtfull question disposed with an argument
invented, and the antecedent or former part being put and
graunted, is necessarily concluded and determined: for, where
an axiome is doubtfull, it maketh a question: therefore for
prose of the truth, we must invent a third argument, and
dispose it with the partes of the question severally, one with
the one, and one with the other.

There be two parts of a syllogisme: the antecedent, and
conclusion: The antecedent proueth the conclusion, and hath
two partes, to wit, the proposition and the assumption.

The proposition is the first part, wherein the whole que-
stion, or at the least, the latter part of the question is dispo-
sed with the argument invented.

The Assumption is the second part, which is taken out of
the proposition.

The conclusion is the last part, proued by the antecedent,
and concluding the question which was in doubt.

If any part of a syllogisme be wanting, it is called then
an imperfect syllogisme, or enthymeme. If any thing be ad-
ded more and above these three axiomes appertaining there-
unto, that addition is called a prosyllogisme:

The partes also of the syllogisme are oftentimes dis-
orderedly and confusedly disposed or placed: notwithstanding,
if any doubt shall arise hereof, the axiome which is
wanting must be supplied, the superfluous prosyllogismes
or additions must be cut off, and euery part orderly reduced
to his owne place.

Annotations.

A Man may here aske, why I doe not aswell put down the
nature of a false syllogisme as I haue done the definition
of a false axiome. I aunswere: that, truth and falshode be-
ing incident to the nature of an axiome, both were to be put
downe, for that in them both, appeareth the fruite of axio-
maticall iudgement: but it is one thing to diuide an axiome
into that which pronounceth trueth, and that which contey-
neth falshode: and another thing, to tell what is a false,
and

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and an inartificiall axiome, made against these rules and prescriptions of Arte: the one I did, for it was to be done: the other, as I did it not in the tractate of axiomes, so will I not do it in this discourse of syllogismes: the ambiguous signification therefore, of this word, false, was the onely occasion of this doubt.

As in Grammer, and Rhetorick, the naturall ordering of nouns and verbs with other partes of speech is commonly altered and chaunged into a more elegant and artificial coniunction, so in Logike the proposition is not alwaies in the first place: but is diuersly disposed, to auoyde satietie, and suspicion of Arte.

W^e perceau^e here, by the definition of a syllogisme, that the necessitie and vertue of consequence dependeth vpon the orderly disposition of the question with the argument inuented: so that, not the argument properly, but the syllogisticall disposition doth epyther proue or disproue the question.

W^e is greatly deceaued who thinketh there is no part of iudgement but onely in syllogismes. For, besides methode; the first, and almost the chiefe kinde of iudgement is in axiomes, yea and the very foundation of all other iudgement. For hereby w^e iudge of all the principles of all artes, of all playne and manifest axiomes. Yea all such questions to the which we cannot aunswere yea or nay (as these be: what is it: what partes hath it: where is it: what qualities hath it: when will it come?) are aunsw^{er}ed by this kinde of iudgement. For, if you make answ^{er} to that which is demanded; the hearer is satisfied.

But if these axiomes be not playne inough of themselves, they must be sent to syllogisme, there to be discussed, and so to methode, there to be ordered. So that, whatsoeuer is epyther by syllogisme, or methode iudged, it is all iudged by the helpe of this first and axiomaticall iudgement. For if the premisses in a syllogisme be not sometimes certayne and so iudged by axiomaticall iudgement, and graunted; there will be no ende of making syllogismes: when still w^e call the groundes thereof into controuersie, for want of axiomaticall iudgement.

The second Booke.

[A Syllogisme:] *σύλλογισμος* is, as it were, *συλογὴ καὶ ἐπαγωγή*, an Arithmetically deduction of sums in accompts, and so here metaphozically of axiomes and arguments.

The necessitie of the consequence in a syllogisme dependeth on that olde ground, that such thinges as agré in any third thing, must also agré among themselves. As then, in thinges that be to be measured with line or by weight, we iudge of them as they agré both eyther in line or weight: so it is also when an axiome doth affirme or deny any thing of an other, whereof we doubt. For, if the line or measure, I meane the third argumēt, agré with both y parts of the question, it sheweth y then the affirmation is true: but if it agré but with one of them, it declareth the negation to be true.

ὅταν ὁ μέσος, sayth Aristotle, ἐξ ἀνάγκης, καὶ ὁ συμπέρασμα ἐξ ἀνάγκης. Non enim ex omnibus propositionibus veris syllogismus duntaxat efficitur, sed ex duabus necessariò consequentibus, & inter se non minus coherentibus, quàm annuli inter se coherent. Oportet enim conclusionem ex superiorum propositionum consecutione exprimi.

There is but one kinde of argumentation, and, that is a syllogisme. For, an Enthymeme is nothing but a contracted syllogisme. If the subiect be one and the same in both the propositions, then the Maior wanteth: but if the predicate, then the Minor. Aristotle calleth it *σύλλογισμός ἀτελής*. It hath his name *παρεῖν ἐν θυμῷ*, that is in Latine cogitare, & commentari, to thinke, to excogitate, to tolle a mans minde, and meditate. For the minde neuer rests when an imperfect syllogisme is put downe, before it hath supplied that which wanteth, the better to iudge of the whole perfect syllogisme: whereupon the satyricall poet sayth,

aut. curtum sermone rotato.

Torqueat Enthymema. *Iuuenal. satyr. 6.*

Spaister Plowden Fol. 361, a. Stowell le agel suit estrange al fine, et de pleine age al temps del fine leue, ergo il suit lye. Adde the proposition hereunto, it will be a playne and perfect syllogisme. So agayne in the same place;

Stowell le demandant suit estrange al fine, et deins age al temps del fine leue; Ergo il est exempt. Adde the proposition

tion

tion, and this also will bee a full syllogisme.

[The proposition:] in a compound syllogisme, which they call hypotheticall, the proposition, that is, the Maior, as they tearme it, containes the whole question: but in a simple one, which they tearme a Categorical syllogisme, it containeth onely the later parte of the question, which is called of them predicatum, or attributum, the predicate or attribute, because it is spoken, affirmed, attributed or applyed to the former.

[The assumption is taken out:] as from a thing put downe and graunted, and now applyed moze nearely to the purpose, of the Latine, Assumo.

The scholemen haue commonly foure kindes of Argumentations, Syllogisme, Enthymeme, Induction, Example, to the which some adde Sorites and Dilemma: others also there be, but these are the most famous: and all these, as I sayd before, come all to one. For an Enthymeme is but a contracted and short syllogisme: An example, but an argument from the like or equall, a facto simili seu pari, and no argumentation of it selfe without the helpe of a syllogisme: An Induction, which is called the Socraticall Argumentation, is but an argument concluded by a syllogisme, from the enumeration of the partes: A Sorites, but an Enthymematicall progression by certayne degrees. Tully calleth it Penelopes telam, because it is wouen as it were, by ascending and affirming, but vnwouen againe by descending and denying: the Stoykes vsed this very much: it is called Sorites of *σάρος*. aceruus, a heape, because, as of many graynes is made a heape of coynes, so of many degrees an argument called Sorites, by this enthymematicall progression. Whereupon the Poet sayth:

Inuentus, *Chrysippe*, tui finitor acerui.

It is commonly called, à primo ad vltimum, but not so aptly, for as well may it be called, ab vltimo ad primum. As in that which Themistocles was wont to vse:

The Athenians rule all the other Græcians: I rule the Athenians; my wife, mee; my boy, my wife:

Therefore my sonne ruleth all Greece. And thus;

¶

The second Booke.

My sonne ruleth my wife; my wife commaundeth mé :

If the Athenians; the Athenians all Grace;

Therefore my sonne ruleth all Grace.

Maister Plowden Fol. 229. b. hath a Sorites of diuers degrées. Le playntife deriue son lease de Cocke, quel deriue son title del Counte del Pembroke, quel deriue son title del roy Edward, quel deriue son title per discent del roy Henry le huit, quel deriue son title per discent del roy Henry le sept, quel deriue son title per le fine, et per le moztant del Marques sans issue. Ifintq; si le playntife ne proue suffisamment, que le Marques est mozt sans issue, et que le roy auoyt estate en la terre puis la mozt, il ne proue suffisamment la title ne interest.

Bracton, lib. 5. Fol. 335. Item, cum nulla summonitio nec defalta, nulla sequi deberet Captio: & cum Captio nulla, nulla sequi deberet possessionis amissio: Ergo à primo, vbi nulla summonitio, nulla sequitur possessionis amissio, quia vbi primum & principale, quod est summonitio, non subsistit, nec ea quæ sequuntur, locum habere debent.

Lastly, a Dilemma, is nothing els. but an argument from the contraries or opposites, or any disagreeable argument. It is called Dilemma, of *Δις*, and *Λογισμῶν*, to take on both the sides: because the argumentes are so set, as that there is no way left to escape, as in that of Protagoras the maister, and Euathlus the scholler: where Euathlus gaue some money in hande to his Rhetoricall Docto^r Protagoras, and couenanted to pay the rest when Euathlus should win the first cause that euer hee pleaded for. Protagoras suing Euathlus for his money, saide, if Euathlus overcome mé, then by bargain & composition hee must pay mé the money; if hee lose, then by the course of Law. Pay q^d Euathlus, if I lose, then by couenant you get nothing: if I winne, then will the iudgement discharge mé.

The like is that which Bias bled, and was reforted by Phauorine: If you marry any woman, shee must either be faire and so shall you haue her κοινῶν, common: or els foule; and then you shall finde her πορνῆν, ~~whore~~: therefore marry none at all. Pay, saide Phauorine, there be women of middle beautie,

beautie, neyther so fine, as to make euery man to loue, nor so foule, as to make euery man hate them. Therfore a man must marry.

So in Arist. 2. Rhet. A certaine precise priest would not suffer his sonne to haue any dealing or conference with the people. For sayth he, if thou speake truth, thou shalt displease men, if vntrueth, God: May rather feare not to meddle with the multitude, for if thou tell the truth, thou shalt please God, if vntruth, men.

Plowden: Fol. 362. Browne a most Logicall Lawyer concludeth his witty disputation with this Dilemma, si Stowell fuit lie per le purnieu del statute, il est apres except: si ne fuit lie per le purnieu, ne besoigne estre except, ergo il est, alarge.

I sayd befoze, that Exemplum, an example, was but an argument a facto simili, seu pari, and that the onely force of argumentation therin proceedeth from disposition syllogisticall: so it is in 4. H. 6. 13. brieft de mayntenance fuit pozt per deux, ou le tozt fuit sayt al troys, la Newton proue que le brieft abatera, quia ne fuit pozt per tous troys, sic, si le tozt fuit en comon, dunque eur courent de prendre leur action en comon, et que le tozt fuit en comon, ieo prouera, car si eur fues sont nonsuit per cause del mayntenance, cest in comon: si soyent barres per cause del mayntenance, cest in comon, et les expenses del suite sont en comon. ergo, &c.

Neither in these, nor in that called *Violentum*, and such like, is there any new disposition or art of consequence, but onely that of syllogisme.

[A prosyllogisme:] Vide 4. H. 6. 30. In repl bastardie fuit alledge in le maister le auowant, le question fuit, an il auera ayd de son maister, deuant que il reioyne al bastardy, et per Martyn, il ne auera.

The second Booke.

Le syllogisme est simple.	<p>ou nul entree del apd, la nul apd.</p> <p>Icy nul entree del apd, car</p> <p>Ergo nul apd icy.</p>	<p>Si aucun entree del apd icy, il serra bel cco que est devant ple, s. petit auxilium d'un tiel, sine quo ipse non potest respondere: bel apres ple, s. petit auxilium ad manutenendum exitum, le consequens est proue,</p> <p>Il nauera l'entree devant ple, s. sine quo non potest respondere, car il mesme ad responde, Lad fait Conusance.</p> <p>Pec l'entree apres, ad manutenendū exitum, car icy nul issue est loyne inter eux.</p> <p>Ergo nul entree omnino.</p>	<p>ne sont plusors que deux maners de entrees del apde, deuant ple, ou apres, l'un in reall actis on, l'auter in personell.</p> <p>Ergo si foyt omnino, oportet quod sit vel hoc, vel illud.</p> <p>In 3.H. 6. 21. b. Rol bsa vna pposyllogisme, vide le lieu.</p>
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Canons, Elenchs.

In every simple syllogisme that is not proper, there must be some affirmatiue and generall argument.

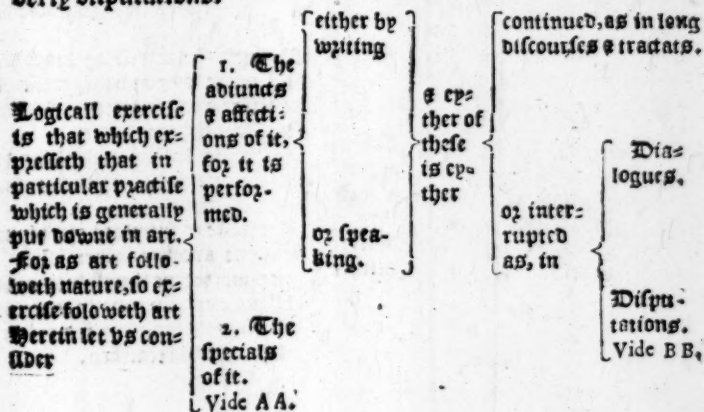
Interdum quoq; simplex syllogismus ex enunciatis compositis constare potest, si modo compositio ipsa argumenti simplex sit. Ut apparebit aliās. *Freigius; Snellius, Ramus.*

Here then generally it is a false syllogisme, when all the axiomes be either negatiue or proper. Ex omnibus enim specialibus, aut negatis, nullus communis syllogismus in vlla figura simplici, concluditur. *Ramus. 2. lib. animaduers.*

Proximum genus syllogismi & Methodi ignoratur, itaq; ponitur dispositio.

Vt in connexo & disiuncto axiomatic veritas pendet ex connexionione & disiunctione, non veritate partium, sic syllogismus ex necessitate consequutionis, licet omnes partes sint impossibiles, vt, omnis arbor est lapis, omnis leo est arbor, ergo omnis leo est lapis.

In euery syllogisticall conflict and controuersie, there is a defendant & an opponent. The first is to bryge, proue, conclude; the other to repell, auoyd. and bryue backe. The disputation being once begon, it is an vnoorderly confusion for the same man sometimes to aunswere, sometimes to reply, and neuer constantly to playe out his owne parte: much like the two clownes in Virgill, which, when they could not aunswere what was propounded, begin a fresse with a new doubt on the necke of the olde: Dic, quibus in terris, quoth the one, and Dic, quibus in terris, quoth the other. Arræde me a riddle, sayth Damætas: and Arræde me a riddle repliyeth Menalcas, thincking it a faire conquest, to haue taken and giuen blowe for blowe, as Bakers and Butchers vse to doe, who neuer care for any curious wardes, but lay on loades like good fellows, one for one, till both begin to stagger, with their valiant blood about their bused pates. I haue therefore in a word or two, layd downe some generall instructions and directions for orderly disputations.



C. ff.

B B. Dispu-

The second Booke.

The proponent, who defendeth the proposition of position: whereunto also the moderator and determiner of the disputation is referred, who commonly manageth the position.

1. The disputers

The opponent, who defendeth the contrary.

B B. Disputation is an argumentable discussing of a doubtfull proposition where ntc.

2. The duties of the disputers, either,

common to both them, as in

preparation and furniture,

of instruments for the disputation, as bee

Logike.

Rhetorike

things requisite for the same, it must be noted therfore.

1. What may confirme or confute the position.

2. What sect of philosophy the adversary followeth.

3. They must haue in memory the general heades of artes, which are commonly used in disputations.

Conflict and assault: they must neither

Wrangle about trifling wordes, Nor make long and impertinent excursion and vagaries.

Nor seeke starting holes.

Nor bring in any such thing as may rather make against them, then with them.

Nor seeke to supplant or circumuent one another iniuriously.

nor ouerweene themselves, nor be obstinate and Anguler in conceipt.

Nor fall to threatening and railing with vndeceit tearmes.

Proper to either of them. CC.

CC. The

1. To haue his weapons in a readines, that is, to haue his objections framed artificially with syllogisticall disposition.

2. Not to cast his argumentes confusedly on a heape, but to vse them distinctly, one after another.

3. To haue Prosyllogismes in a readines, for the confirmation of such parts of his syllogismes, as may by likelihood, be denied.

4. To bring in nothing which hath not some probabilitie or shew of truth in it.

5. Sometimes to deale directly & openly: sometimes couertly, and by bringing his aduersary to an absurditie or impossibilitie.

6. Neuer to choppe in impertinent matters, which make nothing at all to the matter in controuersie.

Opponent be

C.C. The proper duties of the

Defendant be

1. In choise of his position, that it be not

Repugnant to sence.

Contrary to equity & honestie.

Too hard and difficult.

2. Both in

Repetitions of the objections made, & that either by the selves same words, or with the selfe same sence, in the like order as they were propounded: with a kind of curteous preface: that both himselfe may haue some meane-space of conceauing a solution, and the auditors better vnderstand what was objected.

And also in answering of the same.

D.D.

The second Booke.

By shewing, and rejecting, if absurd fooleries be obieced, or such as no man understandeth.
 By granting and confessing, when such things be brought in, as make nothing against the position.
 By affirming or denying, when any interrogation is made: or els by asking what he meaneth by his interrogation, if it be ambiguous and sophistical.

either

The premisses and prosyllogisms when they be false.

1. by denying either of

Or the consecution & consequence, when the fault is in the forme of conclusion: for the conclusion it selfe must never be denied.

DD. The obiections be answered.

either perfect, when the very cause is shewed, why the conclusion is not sufficient, and it is

The questions and interrogations be cap-tious and doubtfull.

by distinguishing when either

Or the premisses be true not absolutely, but in part. And here frequent distinctions must be avoyded.

Or by direct solution, & that

2. either

Or conditional granting, as I graunt, if you so understand it. Sometimes the defendent doubteth of the truth of some one of the premisses, and doth therfore leaue it, of purpose to answer to the other that is more plaine, Thus, Let the Maior passe for a while, I now answer to the minor.

Imperfect by bringing in some instance, that is by taking a particular exception to a generall proposition.

A A. somuch

to search and inuent the question it selfe.

either be-
loging to
Inuenti-
on: as

to picke out the arguments and pꝛoofes.

do refer them euery one to their feueral heads, & there to inquire of their sufficiency, as whether they be vsed for a Cause which is no cause, &c.

Analysis, in
vndecoding &
examining
that which
is already
made, & is

Axiomaticall, where all the axiomes must be also brought to their heads, and their truth or falsenes diligently examined.

or to Dis-
position &
that either

Syllogisticall, for the examination and triall of consequence, what followeth, or not followeth.

or Dia-
noeticall
which is
either

Methodicall, for pꝛoofe of order and Methodicall handling of the matter discoursed vpon.

A A. for
much of
the affec-
tions
of this
logically
exercise
the spect-
als
now fol-
low, which
bee

of the
whole
worke
or of
some
part

way of imi-
tation and
that either

either of
these is

in wordes, called Trans-
lation.

in things
called
properly
imitatio.
we must
Imitate

neither all
autoꝝ, but
the best of all:

nor all things
but the best, &
that freely,
not seruitely,
as binding
our iudgement
to othermens
fancie.

Genesis, in
making or
framing of
any thing
by our
owne in-
dustrie, &
that ei-
ther by

first peruse euery place
of Logically inuentio for
the inuenting of pꝛoofes
and arguments.

Or by pꝛo-
per Inuen-
tio, where
we must

then dispose
them artifi-
cially both
by iudgement

Axiomaticall:

and Dia-
noeticall & that
both

Syllogisticall.

Methodicall.

The second Booke.

The tenth Chapter.

Of a simple syllogisme.



Syllogisme is eyther simple or compound. The simple is that, wherein the later part of the question is disposed in the proposition, the former part in the assumption, and is affirmative when all the partes be affirmed: Negative, when the conclusion with the proposition, or the assumption is denied. Generall when the proposition and assumption be generall; Speciall, when one of them onely is generall: Proper, when both of them are proper or singular.

The eleventh Chapter.

Of the contracted syllogisme.



Here be two kindes of simple syllogismes. The first when of the former argument in the proposition either affirmed or denied, but in the assumption affirmed, the conclusion is speciall.

Affirmative generall.

Da- Constancy is a vertue.
rap- Constancy is confidency,
ti. Therefore some confidency is a vertue.

Neg. generall.

Fe- Rashnesse is no vertue,
lap- Rashnesse is confidency:
ton. Some confidency is no vertue.

Affir. speciall.

Di- Some wise man is rich,
fa- Every wise man is prayse worthy,
mis. Some prayseworthy man is rich.

Da- A wise man is prayseworthy,
ti- Some wiseman is poore,
li. Some poore man is prayseworthy.

Neg.

Neg. speciall.

Bo- Some soles is not fortunat,
car- Euery soles is contemned,
do. Some contemptible man is not fortunat.

Fe- Soles be not happy,
ri- Some soles be fortunat,
son. Some fortunat men be not happy.

Affir. proper.

Socrates is a philosopher,
Socrates is a man,
Some man is a philosopher.

Neg. proper.

Thersites is no philosopher,
Thersites is a man,
Some man is no philosopher.

But the clearenes of reason and iudgement requireth no such disposition, but is content with a more contracted kinde of argumentation. This contraction is, when the argument inuented to a particular question, is put for an example, in such sort, that it go before eyther part, and be affirmed in the assumption, thus :

Some confidence is vertue, as Constancie :

Some confidence is not vertue, as Rashnes.

For here the argument inuented commeth before both the partes of the question, as though it were exprest thus :

That constancie is a vertue, and confidencie a vertue,

Therefore some confidencie is a vertue. And,

Rashnes to be no vertue, yet a kind of confidencie,

Therefore some confidencie to be no vertue.

And after this manner, We, the mayster of syllogisticall iudgement, doth alwaies contract it, and neuer otherwise expresse it. So in that example.

Alcun Husbandman tua sa file, come Saunders ; which, if you expresse it, will be thus :

Saunders poisoned his daughter,

Saunders was an husbandman,

Therefore some husbandman poisoned his daughter.

ff.

Annota-

The second Booke.

Annotations.

This chapter conteyneth the third figure of Aristotle.

In all those artificiaall wordes, Darapti, Felapton, &c, and others of the same kinde, there be certeine significant letters to be obserued, as, A, signifieth a generall affirmatiue axiome: E, a generall negatiue: I, a speciall affirmatiue: O, a speciall negatiue: besides some consonantes which be notes of Reduction, which I little esteeme of.

The olde verses be thus,

Asserit, A: negat, E: sunt vniuersaliter ambæ:

Asserit, I: negat, O: sunt particulariter ambæ.

Valla reiecteth this contracted syllogisme, so doth Scribonius, sith, as they thinke, there is no crample hereof to be found: and by Scribonius, there is no new syllogistical disposition here, but onely an argument from the speciall. But Lazarus Schonerus, adducit hæc exempla, Primum est in *Miloniana*, Negant intueri lucem fas esse ei. qui a se hominem occisum fateatur. In qua tandem vrbe hoc homines stultissimi disputant? Nempè in ea quæ primùm iudicium de capite vidit, *M. Horatii* fortissimi viri, qui nondum libera ciuitate, tamen populi Romani comitijs liberatus est, cum sua manu forem esse interfectam fateretur, syllogismus hic est,

M. Horatius populi comitijs absolutus est,

M. Horatius confessus est se sua manu cædem fecisse,

Ergò aliquis à se hominem occisum falsus, est absolutus.

Item in eadem. Quod si duodecim tabulæ nocturnum furem quoquo modo, diurnum autem, si se telo defenderit, interfici impunè voluerunt, quis est, qui quoquo modo quis interfectus sit, puniendum putet, cum videat aliquando gladium ad occidendum hominem ab ipsis porrigi legibus?

Syllogismus hic est,

Furem nocturnum interficere licet,

Furem nocturnum interficere, est hominem occidere:

Ergò hominem occidere aliquando licet.

Huius generis est illud,

Riuos deducere est licitum diebus festis,

Riuos deducere est opus rusticum,

Quedam igitur opera rustica sunt licita festis diebus.

Virgilius

Virgilius sic iudicat, 1. *Georgic.* sed pro argumento exemplum sextuplex, subijcit particulari questioni,

Quippè etiam festis quædam exercere diebus
Fas & iura sinunt: riuos deducere, nulla
Religio vetuit, segeti prætere de sæpem,
Insidias auibus moliri, incendere vepres,
Balantumq; gregem fluuio mersare salubri,
Sæpè oleo tardi costas agitator aselli,
Vilibus aut onerat ponus, lapidemq; reuertens
Incusum, aut atræ massam picis vrbe reportat.

Exempla specialia suo generi particulariter sic interdum in artium præceptis accommodantur, quale est illud de similitudine, lib. 1. dialecticæ *Rameæ*, cap. 20. aliquando nota nulla est, *Virg. Aeg.* 2. O formose puer &c. Syllogismus hic est,

In hoc exemplo nota est nulla.

Est autem similitudinis:

Ergò aliquando similitudinis nota est nulla.

Sic in *Rami* Arithmetica, lib. 1. cap. 1. Numerus potest esse minimus, vt vnitas, syllogismus hic est.

Vnitas est res minima.

Vnitas est numerus:

Aliquis igitur numerus est minimus &c.

Elenchs.

Among all these syllogismes, there is not any one good, where the assumption is negatiue.

The twelfth Chapter.

The explicate Syllogisme.



A Syllogisme simple of the seconde kinde the proposition must be alwayes generall or proper: the conclusion negatiue, if either the proposition or assumption be negatiue.

Where be two kindes of them: The first wherein the argument inuented both follow both in the proposition & assumption, and must be denyed in one of them.

The first generall; Piers in May.

If f. y.

Ce

The second Booke.

Ca- He that plaith while his flocke is vnfed, can giue
no accompt to great God Pan,

Sa- A good shepheard can geue accompt to great God
Pan,

Re: Therefore a good shepheard playeth not while his
flocke is vnfed.

Maister Plowden Fol. 213. b.

Ca- Pul secret verdit del iuroz fait le plaintif nonsue,

Sa- Chescun verdit de doit bien rendue, fait le plain-
tife nonsue.

Re. Ergo Pul verdit bien rendue, est secrete.

The second generall in May.

Ca- The hyzeling letteth his sheepe runne at randon:

Mes- The good shepheard letteth not his sheepe runne
at randon, Therefore

Tres. The good shepheard is not a hyzeling.

Maister Plowden: Fol. 5.

Ca- Chescun bone agrément couvent esse perfect,

Mes. Pul incerteine agrément est perfect:

Tres. Ergo nul incerteine agrément est bone agrément.

The first speciall in Iuly.

Fes- A good shepheard is not idle:

Ti- Paris is idle, therefore,

no. Paris is not a good shepheard:

Maister Plowden: Fol. 28. b.

Fes- Pul bone remaynder poet comencer sur conditiõ:

Ti. Cest remaynder fait per le prioꝝ de bath a William
Beiushin est limite de commencer sur condition,
s. si ipse habitaret, & residens esset &c. Ergo

No- Cest remaynder n'est bone remaynder.

The second Speciall.

Ba- He that sitteth safely sitteth below:

Ro- Algryn did not sit below, Therefore

Co. Algryn sate not safely.

Maister Plowden: Fol. 34. a.

Ba- Chescune bone condition est compulsive,

Ro- Cest limitation en William Beiushin, n'est com-
pulsive.

Co.

Co. Ergo cest limitation nest bone condition.

The first proper.

Morrels brayne was not brused by an Egle,

Algrins brayne was brused by an Egle,

Therefore Algrin is not moyrell.

Mayster Plowden, Fol. 101. a.

John vane Salisbury ne tue Olyuer ap David auec
malice pzevence :

Richard Salisbury fuez Olyuer ap David auec malice
pzevence. Ergo,

Richard vane Salisbury n'est Iohn &c. vel,

N'est d'estre acquite, come, Iohn &c.

The second proper.

Paris was pꝛotod

Moses was not pꝛotod, Therefore

Moses was not Paris.

Mayster Plowden : Fol : eodem.

Richard Salisbury fuit murderer ,

John vane Salisbury ne fuit murderer Ergo,

Iohn n'est semblable al Richard &c.

Annotations.

Negative if :] Here vpon the schoolemen giue out this
rule. Conclusio sequitur deteriorem partem . For a ne-
gation is worse then an affirmation, as we haue heard al-
ready . But that which they put downe generally as inci-
dent to all syllogismes is heere artificially set downe in his
proper place.

Others haue left out these two last kindes of syllogismes;
but iniuriously : for they are as artificiall as the rest, and of-
tentimes vsed to discerne singulers that seme to be the same.
Singularia, say they, non considerantur in arte &c. absurdè.
Nam tota Astrologia est de singularibus de sole &c. tamen
precepta sunt catholica. Sic in foro, curia, rostris, &c. omnia sin-
gularia. Sic accusare solemus hunc, defendere illum, &c. Om-
nia singularia;

As befoze, the contracted syllogisme was according to the
disposition of the third figure put downe by Aristotle, where

f. l. ii.

the

The second Booke.

the Medium is the former part in eyther of the premisses : so this first kinde of the explicate syllogisme is the same that Aristotle comprehendeth in his second figure , where the Medium , or third argument is the later part in eyther premisses . Lastly , the second kind of explicate syllogismes , which followeth in the next chapter , is contained in the first Aristotelicall figure , wherein the third argument is the former part in the proposition , and the later part in the assumption : according to the verse :

Sub, præ, prima: bis præ, secunda: tertia, bis sub.

Annotations. Elenchs.

No good syllogisme can bee made in this kind , if eyther all the axiomes bee affirmatiue , or the proposition bee speciall , as,

That which beeth reason is best ,

The world is best.

Therefore the world beeth reason.

For so (sayth Cotta in the third booke of Cicero concerning the nature of Gods) a man may conclude , that because nothing is better then the whole world , therefore the world can play on the Lute.

Yet I say not this , as though no truth could bee concluded by the like disposition : for , true things are sometimes concluded by sophisticall and deceitfull disposition , as that of Persius in his fift satyre.

An quisquam est alius liber, nisi ducere vitam

Cui licet, vt voluit? licet, vt volo, viuere : Non sum

Liberior Bruto?

Hee is free that liues as hee list,

I liue as I list, therefore I am free.

But it is therefore noted as sophisticall , for that , of true things , by the selfe same disposition , an vntrueth may bee concluded. As,

A man is a liuing creature,

A horse is a liuing creature. Therefore,

A horse is a man. Agayne,

Hee that affirmeth a man to bee a liuing creature , sayth truely.

Hee

Hæ that sayth, thou art an asse, affirmeth a man to be a
living creature. Therefore

Hæ that sayth, thou art an asse, sayth truely.

Thus much for the first fallaciæ, when all the arïomes
be affirmatiue. The second followeth, when the proposition
is speciall, as in that which was objected against Diogenes.

Thou hast that which thou didst neuer loose,

But hornes thou didst neuer loose,

Therefore thou hast hornes.

For if you resolue it thus,

Hæ hath hornes that neuer lost hornes,

Diogenes neuer lost hornes,

Therefore Diogenes hath hornes.

Then eyther the proposition will be false, if it be gene-
rall, or the syllogisme will proue sophistical, if it be speciall.

The proper duetie therefore of a syllogisme is, to lay
downe a certaine, true, and infallible rule of reasoning in
such sort, that the premisses once graunted, the conclusion
must in any case follow, and therefore this maner of reason-
ing, as all such like, is left out, as not artificiaall, constant,
and immutable; but, doubtfull, vncertaine, and deceitfull.
For, although sometimes thereby a trueth may be conclu-
ded, yet seeing that it also for the most part causeth erroꝝ, it
is not admitted as a law syllogisticall.

The 13. Chapter.

Of the second kinde.



In this second kinde, the argument goeth before
in the proposition, and followeth affirmatiuely in
the assumption.

The generall affirmatiue.

Bar- That which bringeth to good, is god.

Ba- Death bringeth to good, Therefore

Ra. Death is god.

Colyn in Nouember.

Vnwise and wretched men to weete what's good or ill.

Woe

The second Booke.

Wee deeme of death as doome of ill desert :
But knew wee fooles what it brings vs vntill,
Dye would wee daily once it to expert.
Faire fields and pleasant layes there beene,
The fields ay fresh, the grasse ay greene.
ô happy hearfe :
Make hast ye shepheards thither to reuert.
ô ioyfull verse.

Maister Plowden Fol. 315. a.

Bar- Les choses plus excellents del terre perteignent
al roy,

Ba- Or est le chose plus excellent del terre :

Ra. Ergo or perteigne al roy.

The generall negatiue.

Ce- Men must not be bound to more misery then men
can beare,

La- Shepheards be men,

Rent Therefore shepheards must not be bound to more
misery then &c.

Hobbinoll in September.

Ah Diggon, thylke same rule were too straye,
All the colde season to watch and wayte,
Wee bene of flesh, men as others be,
Why should wee be bound to such misery.
What euer thing lacketh changeable rest,
Mought needes decay when it is at best.

Maister Plowden Fol. 332. b.

Ce- Ceo que vient al roy en respect que il est possessor
del cozone, ne passera per graunt del terre,

La- Or vient al roy come possessor del cozone :

Rent Ergo, or ne passera per grant del soile.

The speciall affirmatiue.

Da- Or that hath loued, ought to pitie louers,

Ri- Pan hath loued,

j. Therefore Pan ought to pitie louers.

Colyn in January.

And Pan thou shepheards god, that once didst loue,
Pitie the paines that thou thy selfe didst proue.

Da-

Paister Plowden Fol. 64. a.

Da- Cestuy que prist obligations come vicount pour
lesser home a mainprise, sayt ceo colore officij.

Ri- Lewis Dyue prist obligatiō de Iohn Maningham &c.

j. Ergo Lewis Dyue sayt ceo colore officij.

The speciall negatiue.

Fe- The pipe which pleaseth where it should not, shall
not be kept,

Ri- Colyns pipe pleaseth where it should not,

O. Therefore Colyns pipe shall not be kept.

Wherefore, my pipe, although rude Pan thou please,

Yet for thou pleasest not where most I would,

And thou vn lucky muse that wontst to ease

My musing minde, yet canst not when thou should,

Both pipe and muse, shall fore the while aby,

So broke his oaten pipe, and downe did lye.

Paister Plawden Fol. 64. b.

Fe- Pnl obligation fait pur ayder le vicount pur vn
tozt, n'est loyall,

Ri- Cest obligation de Maningham al Dyue est fait pur
ayder le vicount pur vn tozt,

O. Ergo cest obligation n'est loyall.

The proper affirmatiue in Iuly.

The great God Pan saued his flocke with bloody sweat,

Chyist is the great God Pan,

Therefore Chyist saued his flocke with bloody sweate.

O blessed sheepe, ô shepheard great,

that bought his flocke so deare,

And them did saue with bloody sweat

from wolues that would them teare.

Paister Plowden, Fol. 401. a.

Richard Cole tue Elizabeth Penbrooke,

Cestuy que done le coupe le 12. iour del february, est

Richard Cole,

Ergo cestuy que done le coupe, tue Elizabeth Penbroke.

The proper negatiue, in Aprill,

Elysa cannot be blemisht with any mortall blot,

Shee that sits vpon the grassy greene, is Elysa.

E g.

Therefore

The second Booke.

Therefore she that sits vpon the grassy gréne cannot bee
blemisht with any moztall blot.

Maister Plowden Fol. 475. a.

Alexander Archer ne fuit culpable del mozt del Elyanor
Saunders,

Cestuy que counsel Iohn Saunders de tuer la feme, fuit
Alexander Archer,

Ergo cestuy que counsel &c. ne fuit culpable del mozt del
Elyanor Saunders.

Annotations.

BArbara, is fittest for a general confirmation; Celarent, for
a generall confutation; Darii, serueth to proue in parte,
Ferio, to disproue in parte, according to those two olde schole
verses which I rehearsed before.

As for that kinde of demonstration of syllogismes which
is done by Reduction, it is more troublesome than needfull.
For, syllogismes, if they be once artificially made, neede no
further demonstration, as being of themselves sufficiently
confirmed by their severall definitions, diuisions, examples,
and explications.

Elenchis.

The syllogisme is here nought, if eyther the proposition
be speciall, or the assumption negative, as,

Aliquod animal est equus:

Omnis homo est animal;

Homo igitur est equus. And,

Omnis homo est animal:

Nullus equus est homo

Nullus igitur equus est animal.

The 14. Chapter.

Of the first kinde of a connexiue Syllogisme.

THus much for the simple syllogisme. The com-
pound syllogisme is that wherein the whole que-
stion maketh the one part of the proposition affir-
med and compounded: And the argument inuen-
ted

fed, maketh the other part of the proposition, or is conteyned in it.

To deny or remoue any part in a compound syllogisme is to set downe the speciall contradiction thereof.

The compound syllogisme is eyther conneriue, or disjunctiue.

The conneriue is that whose proposition is conneriue, and is made after two sortes.

First when the former part of the proposition maketh the assumption, the later part the conclusion. As in this,

And if that my grandsire mee sayd bee true,

Sycker I am very sib to you.

If my grandsire tolde me truth, I am sib to you.

But my grandsire tolde me truth,

Therefore I am sib to you.

Paister Plowden Fol. 76. a.

Si le brieve est fait en le nosme du roy, et seale oue son seale, adonques est le fait le roy.

Mes icy, ceo brieve, est fait en le nosme &c.

Ergo est le fait del roy.

Here oftentimes the former parte of the proposition maketh not the assumption, but that which is greater, and of more force to conclude then it is, as,

If there were none but other beastes thine enemies, yet oughtest thou to take hede,

But now the Fox also, the maister of collusion, is thine enemy,

Therefore much more oughtest thou to take hede.

Piers useth this in May, in the gates spech to her little one.

Kiddy, quoth she, thou kenst the great care

I haue of thy wealth and thy welfare,

Which many wilde beastes ligen in wayte

For to intrap in thy tender state :

But most, the Fox, maister of collusion,

For he has vowed thy last confusion.

For thy, my kiddy, be ruled by mee,

And neuer giue trust to his trechery.

G.ij.

And

The second Booke.

And if he chaunce come, when I am abroade,
Sperr the yate fast, for feare of fraude :
Ne for all his worst, nor for his best,
Open the dore at his request.

Maister Plowden : Fol . 11 . a.

Si nul forsques vn comen person est grauntée, ou donée,
vncore les parolles ambiguous serra prise plus bene-
ficialment a luy.

Des icy, le roy mesme est grauntée ou donée,
Ergo, a multo fortiore, les parolles doubtfull serra plus
beneficiall a le roy.

The same kinde of syllogisme or reasoning is framed by
a coniunction of time, with the same force, which this con-
seriue hath, As

When night drawes on, it's time to goe homeward,
But now night drawes on, Therefore
it's now time to get homeward.

Willy in March.

But see, the Welkin thicks apace,
And stouping *phœbus* steepes his face,
It's time to haste vs homeward.

Maister Plowden : Fol . 263 . a.

Quant sir James Hales mette luy mesme en le eate, don-
ques il forssetoit ses biens.

Des il mette luy mesme en le eate, quant il fuit en vie,
Ergo, quant il estoit en vie, adonques il forssetoit ses
biens.

Annotations.

THe speciall contradiction :] when that which was affir-
med in generall, is denyed in speciall : or contrarily, affir-
med, when it was denyed : and when the same thing in spe-
ciall, is both affirmed before and denyed after.

[Connexiue or disiunctiue :] So then of an axiome co-
pulative or discretiue, we vnderstand, that no seuerall and
peculier disposition ariseth.

Vide 10 . E . 4 . Lyttleton contra Danby : si le proper-
tie des biens le mort soit en aucun, tunc serra in le testator,
vel

bel in les executozs : mes est en aucun , ergò in l'un ou l'auter : cest conneriue : Then agayne :

Le propriete est in le testatoz, ou in les executozs,

Mes nemy in le testatoz,

Ergò in les executozs : cest vn disjunctiue.

In composito syllogismo, assumptio, præter argumentum, nihil assumit quæstionis; quod tamen fit semper in simplici syllogismo.

If not the whole question, but onely the latter part of it be conteyned together with the argument inuented, in the proposition, then the syllogisme is simple, although the proposition be compound. For as I sayd elswhere, whensoeuer the disposition is simple, there the syllogisme is simple, though the partes be compound. So that in Catullus is a simple syllogisme. 1. Gen.

Si quicquam cupidoq; optantiq; obtigit vnquam & insperanti, hoc est gratum animo propriè.

Quare hoc est gratum nobis, quoq; charius auro, quod te restituis, *Lesbia*, mi cupido,

Restituis cupido, atq; insperanti ipsa refert te nobis : ô lucem candidiore nota.

Quis me vno viuuit foelicior ? aut magis hac quid optandum vita dicere quis poterit ?

Ramus format sic :

Quod optandum redierit, gratum est,

Lesbia *Catullo* optata redijt :

Optata igitur est.

So in 2. Gen.

Si quicquam sit homo, tum erit animal,

Lapis non est animal,

Lapis ergo non est homo.

Now, which is more, the syllogisme may be simple, though all the partes be conditionall and compound, thus :

Si sit honestum, erit laudabile,

Si sit iustum, erit honestum,

Ergò si sit iustum, erit laudabile. As *Ramus* more at large putteth downe in his French Logike.

¶ g. ij.

Elenchs.

The second Booke.

Elenchs.

There bee two other conneriue syllogismes different from these already rehearsed : but because they are not certayne, constant, and alwayes infallible : therefore they be not put downe in the text, as precepts of Art : yet are they diligently to be obserued, for they are often in authors : especially the first, which is very vsuall : but the second is not so common.

The first kinde is that which taketh away the former part, that it may also take away the later. Terence in *Adelphis*.

Dem: *Carterum.*

Placet tibi factum Mitio? Mi: Non, si queam mutare : nunc cum non queo, æquo animo fero.

Cicero for *Muræna*.

Etenim si largitionem factam esse confiterer, idque rectè esse factum defenderem, facerem improbè, etiamsi alius legem tulisset. Cum verò nihil commissum esse contra legem defendam, quid est quod meam defensionem latio legis impediatur?

Quid in his second booke of sorrowfull songs.

Si, quoties peccant homines, sua fulmina mittat

Iupiter, exiguo tempore inermis erit :

Nunc ubi detonuit, strepituq; exterruit orbem,

Purum discussis aëra reddit aquis.

Iure igitur, genitorq; deùm, rectorq; vocatur :

Iure, capax mundus nil *Ioue* maius habet.

Cæsar in *Salust*. Si digna poena pro factis eorum reperitur, novum consilium approbo : sin magnitudo sceleris omnium ingenia exuperat, his vtendum censeo, quæ legibus comparata sunt.

Colyn in *Jane* hath the like.

But if in mee some little drops would flow

Of that the spring was in his learned head,

I soone would learne these woods to wayle my woe,

And teach the trees their trickling teares to shed,

Then should my plaints, causd of discourtesie,

As messengers of this my plainfull plite,

Flye to my loue where euer that she bee,

And

The second Booke.

III

And pierce her hart with poynt of worthy wite,
As she deserues that wrought so deadly spite.
And thou *Menalcas* that by trechery
Didst vnderfong my lasse to wexe so light,
Shouldst well be knowne for such thy villany.

But since I am not as I wish I were,
Ye gentle shepheards which your flocks doo feede,
Whether on hils, or dales, or otherwhere,
Beare witnesse all of this so wicked deede,
And tell the lasse whose flower is waxe a weede,
And faultles fayth is turnd to faythles pheare,
That she the truest shepheards hart made bleede
That liues on earth, and loued her most deare.

For, although all the examles of this kinde be not false
and deceitfull, but good and sufficient, as in these now re-
hearsed; yet, false may be concluded by the selfe same dispo-
sition, as

Si arbor equus est, viueret:
Sed arbor equus non est:
Non igitur arbor viuít.

In which examle, the proposition and assumption are
both true, yet the conclusion is false: but it is the office of a
syllogisme, as hath bene sayde, to lay downe, a necessary,
perpetuall, and immutable rule, by the which, vpon the
premisses once graunted, the consequence must be ne-
cessary.

The second, which is not so vsuall, is that which taketh
the latter parte, that it may also haue the former concluded,
as in that of Ouide in the fourth booke of his transfor-
mations.

Quem si cura deùm tam certa vindicat ira,
Ipse precor serpens in longam porrigar aluum:
Dixit; et, vt serpens, in longam tenditur aluum;

The argumentation is thus:

Si dii statuérunt vindicare *Cadmm*, fiat serpens:
Sed fit serpens:
Ergo dii statuérunt vindicare *Cadmm*.

Take

The second Booke.

Take an other example, and you shall see, that by the same rule you may conclude that which is farke false, As

Si arbor equus esset, viveret;

Sed vivit arbor:

Ergo, arbor equus est.

For here the forerunning axiomes being both true, the conclusion for all that, is manifestly false. This is called of Aristotle an Elench of the consequent: yet in trueth it is no Elench of argument, but of argumentation: when wee are perswaded foolishly that the consequention is reciprocall, and that the putting downe of the one bringeth in of necessitie the other, and contrarily, As,

Si cygnus est, albus est color. This followeth.

Sed albus est color,

Cygnus igitur est.

} It followeth not.

So, that of Melissus.

Si quid factum est, habet principium,

Ergo si principium habet, etiam factum est

The consequention, sayth Aristotle, is not reciprocall.

Ramus in the 20. of his Logicall animadversions, the first Chapter sayth thus.

Theophrastus autem & Eudemus docuerunt in connexo, Antecedentis negati, & consequentis affirmati tolli posse antecedens, vt tollatur consequens: & consequens retineri, vt retineatur antecedens. In quo genere, etsi rarus error est, est tamen aliquando: Vt,

Si nullum animal est irrationale, omnis homo est rationalis.

Sed aliquod animal est irrationale:

Ergo aliquis homo non est rationalis.

Item,

Sed omnis homo est rationalis,

Ergo nullum animal est irrationale.

Cum maius aliquid concluditur, videntur esse tres termini, sed reuera, res illa maior continet rem ante propositam in se, & quiddam amplius: Itaq; tres tantum termini sunt,

The 15. Chapter.

Of the second kinde of a connexiue syllogisme.



The second conneriue is, wherin the later part of the proposition is remoued in the assumption, that the former also may be remoued in the conclusion, As

If thou hadst bene ruled by mé, thou shouldest haue left that vnlucky soyle.

But thou didst not leaue that vnluckie soyle :

Therefore thou wast not ruled by mé.

Maister Plowden : 281 : 2.

Si apres le mort le testator, sambien l'ordinaire, come l'executoz aueroit le proprietie del biens le testator, adonques serront deux proprieties d'une chose.

Mes deux proprieties ne sont d'une chose,

Ergo apres le mort le testator &c.

The 16. Chapter.

Of a disiunctiue syllogisme.



The disiunctiue is that whose proposition is disiunctiue : and is framed after two sortes also.

The first doth remoue one part of the proposition in the assumption, and inferreth the other in the conclusion.

O Diggon her is, or I missay,

But I doe not missay,

Therefore her is Diggon.

Maister Plowden Fol. 295. b.

Du Iohn Carrell apél al enfant de part son pere, ou Elisabeth Cuddington apels al enfant de part sa mere, doit estre gardeine in socage al dit enfant en manoz de Suyttertton :

Mes nemy Elisabeth Cuddington :

Ergo Iohn Carrell.

The second is that which maketh the assumption of one part

The second Booke.

parte of the proposition being affirmed, and remoueth the other in the conclusion, as,

O Diggon her is, or I mislay,

But her is Diggon,

Therefore I do not mislay.

*M*aister Plowden, *Ibidem*.

*O*u Iohn &c. ou Elisabeth &c.

*M*es Elisabeth doit esse gardeine &c.

*E*rgo nemy Iohn &c.

The same syllogisme is also made of a copulatiue proposition being denyed, because it hath the same force with a proposition disunctiue being affirmed, as,

Shepheards cannot liue in pleasure and paine at once :

But they must liue in pleasure :

Therefore not in paine.

*M*aister Plowden Fol. 28r. a.

Le erecutivo, et le ordinarie ne poient auer le profite del byens le testatoz ensemble, apres le mozt le testatoz :

*M*es le erecutivo le auera :

*E*rgo nemy le ordinarie.

Annotations. Elenchs.

For the first, if the assumption conteine not a speciall, but a generall contradiction, the syllogisme will be sophisticall.

For the second, if the proposition haue not all his partes affirmatiue, the syllogisme is sophisticall.

The proposition in a syllogisme is commonly set from some grounds of liberall arts, as Logike, Rhetorike, Ethike, Physike, &c.

It is not a syllogisme, vnlesse it conclude and iudge necessarily : yea, notwithstanding, the premisses of themselves be false.

Syllogisme is onely proper and peculiar to man ; whereof, no beast doth in any respect participate.

Strict syllogismes be neuer lightly vsed among authors, but eyther contracted or amplified, or els inuerted, as I sayde before, The quicknes of mans wit is such, that it conceaueth the

the whole sometimes without any proposition; another while without any assumption, and now and then it preneteth and foze taketh the conclusion.

Ramus in his French Logike reduceth all the Oration which Tully made in defence of Milo to these three lines, making one simple syllogisme.

Le guetteur et espieur meschant est iustement occis :

Car l'autorité du peuple, et des iudgements du Senate, de *Marie*, de la ley naturelle et humaine le tesmoignent : et n'y a aucune ley contraire ny du Senate, ny de *Pompée*. Tel est le prosyllogisme de la proposition.

Or Clode est guetteur et espieur meschant :

Car il a espié *Milon*, esmeu d'vtilité, de haine, de mauuaises meurs, d'esperance d'impunité: Ce qui a esté entendue per ses parolles et fayts. Et qu'il ayt esté meschant, les faicts contre hommes et les dieus, le demonstrent. Tel est le prosyllogisme de l'assumption, dont est conclu,

Purant Clode est iustement occis.

This is the brieve summe of all that long oration.

The 17. Chapter.

Of Methode.

Thus much for a Syllogisme. Now followeth methode.

Methode is a disposition of diuers coherent axiomes, whereby the most generall is euer first placed : and of diuers syllogismes whereby the best and principall is first put downe, in such sort that thereby all of them may be the more easily perceaued and better remembred. I call that the principall syllogisme which proueth and concludeth the principall question; and that the principall question which was first propounded to be concluded.

So then, as an axiome determineth truth and vntruth, and syllogisme consequence or inconsequence, in like maner is methode the onely iudge of order or confusion.

This methode is then obserued, when as that which is

Why.

best

The second Booke.

best knowne, is placed in the first rōme, and those which bee lesse knowne of themselves, doe follow in order, as euery one is better knowne then an other.

Therefore this methode descendeth alwayes from the generall to the specials, euen to the most singular thing, which cannot bee diuided into any moze parts.

The most generall definition is first to bee placed, and distribution next, which, if it bee manyfold; partition into the integrall parts must bee set downe first and the generall proprieties of the thing so parted; then diuision of the specials must follow. And these partes and specials are in the same order to bee handled, as they were diuided.

If the discourse bee long, it must bee knit together, with transitions, telling brieely what is done, and what is to bee done, for confirmation of memozy, and recreation of the reader.

This methode onely, and none other is to bee obserued, so often as wee teach any art or science, or take vpon vs to instructe perfectly of any generall matter.

Historiographers, Poets, Orators, and such other speakers or writers, are not bound so strictly to obserue the perfection of the first methode: but may, according to their matter, meaning, purpose, time, place, persons, wisely obserue the best for their intent, altering, hiding, adding, detracting, when and how they list. Poets seeke to please the multitude, a beast of many heades. Therefore Homer, maketh not an historicall narration of the Troian warre, from the beginning to the ending thereof, but so mingleth truth with tales, and tempereth them both with a probable shew, and delightfull continuation, that neyther the middle doe seeme discrepant from the beginning, nor the ending from the middle.

And Virgil beginneth the narration of Aneas his voiage from Sicile: making him declare the rest at supper in Carthage with Queene Dido. Comickall poets also, albeit they very exactly diuide their Comedies into Acts and Scenes, yet for the pleasure of the people, bring in euery thing in such order, as though it were by chaunce, hap, or hazard, come so to passe.

Orators

Orators, as referring all to perswasion and victorie, omit orderly distributions; obscure thinges purposely; amplifie; digresse; flatter; insinuate; alter; chaunge; and turne all upside downe, placing the best arguments first and last; leaving the worst, in the middle of their speech altogether, the one to helpe the other; that with forcible thinges in the beginning, the auditors may be wonne; and with as good in the ending, haue their minde and memozy wholly occupied.

This is called the concealed or hidden methode: the methode of wit and discretion, for that it is rather sene in the prouident conceipt of him that writeth or speaketh, then perceaued by any generall rule of art, or precept whatsoeuer. So it is a good policie, if thy cause be honest and good, to vse such Exordiums and beginnings, as may make the matter best knowne and vnderstood plainly and simply: but, if not so good, as thou couldst wish, then to passe away slyly with a smothering insinuation.

In like manner, if thou be to speake before thy enemies, and such as thou fearest, discretion must be vfed, in putting this generall note which I haue now deliuered, in particular practise. Socrates in this sort cogged with the olde Grecian Sophisters, making them say and vn say, and therefore say this, that hee was a wrangler, an inchaunter, a dissembler, a deceiuer. In one word, it is not amisse, to imitate the cunning Surgeon, who hideth his knife, because his patient should not be discouraged. So let vs in this poynt see to our selues skilfull in art, that wee may vse art, without any suspicion of art.

Yet, notwithstanding all this licence vpon such necessary occasion, graunted to these people pleasing men, they must, asinuch as they may, follow and expresse generally, the methode which I first put downe: and that somuch the rather, because it is easie to be practised in some part; and vnto reason most agréable.

Annotations.

Some thinke, the rule καὶ ὁλὸς πρῶτον, to belong to methode; but it is not so. For, axiomaticall iudgement considereth

Ph.ii.

the

The second Booke.

the axioms alone, and severall by themselves; but Methode, the coherence of many distinct axiomes together. The rule *καὶ ὡς ὁπότε* doth simply and onely shew, what axiome is generall, and to be taught generally; what speciall, and specially to be put downe, because such onely be reciprocal: but it telleth not which of these axiomes must in order haue first or second place, which onely is Methodicall.

μεθόδος, of *μετά* which signifieth, with; and *ὁδός*, which is a way. For this is the right and compendious way, in writing or speaking to be obserued. The word therefore is metaphorically applied to any orderly proceeding.

Methode then, as we take it here, is an ordering of diuers axiomes already inuented: not a direction how to finde out axiomes. The inuenting of Arts came by obseruation of particulars; but the teaching and conformation of them now inuented, beginneth at the vniuersall. For, it both giveth more light then the speciall, and may be knowne without the speciall: but not the speciall without it: as a tree, in respect of a pearetree.

Of a little sparke commeth a great flame. Yet the sparke is not therefore more cleare then the flame: so although the knowledge of generals commeth by obseruation of particulars; yet these particulars giue not more light then the generals.

Examples are alwayes lastly to be put downe, for that they are most speciall; and cannot be diuided into any other specials: as being nothing els but the singuler obseruation of this and that proper and peculiar thing.

Methode is like to Homers golden chayne, whereby thinges are sweetly vnited and knit so together, that if one Lynk fall of, the whole chayne is broken and dissolued. And Plato calleth it *Vinculum artis* &c.

As farre as man excelleth a brute beast, by the iudgement syllogisticall; so farre doth one man surpasse an other by disposition methodicall. As then the practise is harde, the praise most excellent, so the Elench in Methode, causing obscuritie, and tautologie, is most foule and detestable.

Homer is noted for his peruersion of Methode, insomuch that

that Tully writing to Atticus, where he purposed to answer the last question first, said he would talke of the last question first, *ἵνα πρῶτον ἀμνησῶς.*

As in the other parts of iudgement, so in this especially, vse, practise, and continuall exercise woorketh all in all, he that hath a generall sight in Logike, hath but the shadowe. He that is acquainted with the particuler practise, is the onely true and perfect logician.

I will neuer call him a Musitian that neuer sang: a Carpenter that neuer builded house: a Souldier that neuer fought, notwithstanding the generall speculation of the first in Musicke, of the second in building, of the third in fighting: no more will I thinke him worthe of the title & name of a Logician, that neuer put his generall contemplation of logicall precepts in particuler practise. For, as it is not enough to know what vertue is, vntil you liue vertuously, and expresse your learning by your living, so it is but a fruitlesse ostentation to bragge of a generall conceipt, without continuance in speciall and particuler exercise.

What precepts soeuer the common Rhetoricians put downe for ordering of Exordiums and framing and disposing of the whole course of their speeche fitly and according to cause, auditors, time, place, and such like circumstances; all those I say, are altogether Logicall, not in any respect pertaining to Rhetoricke, but as a Rhetor may be directed by Logicall precepts of iudgement and disposition.

[Coherent axiomes:] For otherwise a man may say heere, as Horace did of a Poeme patched lyke a beggers cloake, wherein no one peece is like another.

Humano capiti ceruicem pictor equinam
Iungere si velit, & varias inducere plumas,
Vndiq; collatis membris, vt turpiter atrum
Desinat in piscem mulier formosa superne;
Spectatum admissi risum teneatis amici?
Credite, Pisones, isti tabulae fore librum
Persimilem, cuius, velut egri somnia, vanæ
Fingantur species, vt nec pes, nec caput vni
Reddatur formæ,

And after,

Sed

The second Booke.

Sed non vt placidis coeant immitia, non vt
Serpentes auibus gementur, tigris agnæ.

[Most generall:] Le chose generall serra tousiours mise
en demande ou pleynt deuant le chose speciall, et l'entier de-
uant ses partes, Come terre est genre a prée, pasture, bois,
ec. et serra mise in pleint ou demaunde deuant eur.

Int boies est vn genre de terre ou tous maners de ar-
bres crescent, et pur ceo serra mise en demaunde deuant al-
netum & salicetum, que ne sont que especes de bois. The-
loall. lib. 8. cap. 20. Fol. 129.

Notiora sunt, saith *Wasserleider*, non quæ facilius percipi-
untur, sed quæ percepta & intellecta plurimum notitiæ &
cognitionis afferunt, vt vniuersalia, quæ pluribus insunt &
conueniunt. Sic obscuriora, non quæ difficilius percipiuntur,
sed quæ percepta & intellecta singula parum lucis & scientiæ
prebent, vt singularia, & specialissima, quæ etiam sensibus
percipiuntur. *Here vpon is the distinction of notiora naturæ,*
and notiora nobis. But this is confuted of others.

[Syllogismus:] Nam est quedam methodus in syllogismis.
Methodus inueniendæ artis dicta est in genere & specie. Hic
agitur de methodo disponendi.

[Definition first:] so; it giueth light to all that soloweth.

[Partition first:] so; it is made of causes, whereas diui-
sion is of effects.

[Transitions:] Transito inter figuras Rhetoricas à *Cice-
rone* numeratur, cum sit planè logica. Transito reficit audito-
rem, certo singularum partiũ fine, non aliter quàm facientibus
iter multum detrahunt fatigationis notata in scriptis lapidibus
spatia: Nam & exhausti laboris nosse mensuram, voluptati
est: & hortatio ad reliqua fortius exequenda, scire quantum
super sit: nihil enim longum videri necesse est, in quo, quid
vltimum sit, certum est. Transito imperfecta est conuenien-
tior, quando longa partis disputatio non fuerit, vt memoriz
renouatione minime sit opus.

Crypsis methodi est in Elleipsi vel redundantia. Elleipsis
est, non omnium amissio, sed quarundam in methodo. Redun-
dantia est Heterogenia vel Tautologia. In perfecta methodo
docendus est auditor, in crypsei fallendus & mouendus. Sic
enim

enim mutato auditoris stomacho, salubria sunt vengnata, & contra.

As an Enthymeme is a defect of a full syllogisme, so Elleipsis is in methode; as a prosyllogisme is superfluous there, so digressions here: as the inuersion of the premisses is in the one, so the intangled circumduction is in the other. Wherof, besides Homers Iliades, and Virgils Aeneis, the Ethiopicall history is a sweet example.

Argumentum semper disponitur, nunquam disponit: Methodus semper disponit, nunquam disponitur, vt summū genus & infima species; sed enunciātū & syllogismus sunt vt subalterna. Nam enunciātum disponit argumenta, disponitur in syllogismo, syllogismus disponit enūciata, disponitur à methodo.

Vbi materia nulla est, ibi forma nulla esse potest, vt si pars Rhetorices imperfecta in pronuntiatione docenda sit, methodus perfecta non est desideranda.

Socrates compareth the oration which Lysias made of loue, to the foure verses which were written on Mydas tombe, wherein the matter did so wisely hang together, that the first might be last, and last first without any daunger.

ἄλκιυ ὦπα. ἄλκιυ ἔμυ. &c.

Aenea virgo sum, Midæ sepulchro, imponor,

Quamdiu & aqua fluet, & longæ arbores virescent

Ipsi hūc manens lamentabili in tumulto,

Nuntio pretereuntibus, Midas quod hic sepultus est.

And like to Lysias speech, or Mydas epitaph, be all our balductum and incoherent pamphlets, all our peare-booke and abridgements.

Imagine, sayth Ramus, that all definitions, diuisions, and rules of any art, as of Logike, were already inuented and allowed for true, and euery rule were written in a fenerall schoule, euery schoule being put into an earthen pitcher, as they vse in lottaries, and there shuffled together: what part of Logike now must order these confused rules and scattered scholes. Not Inuention, for they be found out already: not arimaticall Iudgement, for they be Iudged and allowed as true, euery Arimie, fenerally, not Syllogisticall; for now euery question is answered, all

It.

contra

contronasties concerning these rules, be discussed: onely methode remaineth, by the direction wherof, I will seke in this pot for the definition of Logike, and will set it in the first place: then for the diuision thereof into Inuention and Disposition, placing it in the second rowe. This done, I will take the definition of Inuention and put it in the third degree; and consequently the definition and diuision of arguments, vntill all the first part of Logike be thus put downe, by defining, diuiding, exemplifying, and binding together the severall tractates by convenient transitions. Then will I in like manner procede to Disposition.

Methode and order is the chiefest helpe of memory: therefore sith all methode is altogether Logicall: instructions for memory, if they belong to any art, must needs be Logicall. Therefore, Sit puer, sayth *Ramus*, qui querimoniam *Penelope* apud *Quidiam* epistola prima de *Physis* absentia post euer-
sam *Troiam* memoriz commendare velit.

Sed mihi quid prodest vestris disiecta lacertis

Ilios, & murus, quod fuit antè, solum,

Si maneo qualis *Troia* durante manebam,

Virq; mihi dempto sine carendus abest?

Diruta sunt alijs, vni mihi *Pergama* restant.

Incola captiuo quæ bone vi stor arat.

Iam seges est vbi *Troia* fuit, ressecandaq; falce,

Luxuriat *Phrygio* sanguine pinguis humus.

Semiseputa virum curuis seruiuntur aratris

Ossa ruinosas occulit herba domos.

Vi stor abes, nec scire mihi quæ causa morandi,

Aut in quo lateas ferreus orbe, licet.

Quisquis ad hæc vertit peregrinam littora puppin,

Ille mihi de te multa rogatus abit.

Quamq; tibi reddat, si te modò viderit vsquam,

Traditur huic digitis charta notata meis.

Nos *Pylon*, antiqui *Nestora Nestoris* arua

Misimus, incerta est fama remissa *Tylo*.

Misimus & *Sparten*, *Sparte* quoq; nescia veti,

Quas habitas terras, aut vbi lentus abes.

Vtilius starent etiam nunc moenia *Phabi*:

Irascos

Irascor votis heu levis ipsa meis.
 Scirem vbi pugnares, & tantum bella timerem :
 Et mea cum multis iuncta querela foret.
 Quid timeam, ignoro, timeo tamen omnia demens,
 Et patet in curas area lata meas.
 Quęcunque equor habet, quęcunque pericula tellus,
 Tam longę causas suspicor esse morę.

Hunc totum locum cum viderit puer primo connexo syllogismo comprehensum, partes singulas notabit, earumq; precipuas exornationes. Propositionem igitur aspiciet initio in quatuor primis versibus positam.

Sed mihi quid prodest vestris disiecta lacertis
Ilios, et, murus quod fuit ante, solum :
 Si maneo qualis *Troia* durante manebam,
 Virq; multis, dempto fine, carendus abest :

Deinde sequitur assumptionis sententia ; At tu abes : & amplificatio ex adiunctis ruinis euerse *Troia* : vbi sex sunt versus.

Diruta sunt alijs, vni mihi Pergama restant,
 Incola captiuo quę boue victor arat.
 Iam seges est vbi *Troia* fuit, resecandaq; falce
 Luxuriat *Phrygio* sanguine pinguis humus.
 Semisepulta virum curuis feriuntur aratris
 Ossa, ruinosas occulit herba domos.

Dehinc repetitur assumptio, & augetur à maiori : non modò abes, sed ita abes, vt scire nequeam vbi lateas. Quod exaggeratur factis *Penelopes*, interrogo, scribo, mitto in omnes orbis partes, nec quicquam de te audio, Decem sunt hęc versus.

Victor abes, nec scire mihi quę causa morandi,
 Aut in quo lateas ferreus oibe, licet.
 Quisquis ad hęc vertit peregrinam littora puppim,
 Ille mihi de te multa rogatus abit.
 Quamq; tibi reddat, si te modò viderit vsquam,
 Traditur huic digitis charta notata meis.

Nos *Pylon*, antiqui *Neleia Nestoris* arua
 Misimus, incerta est fama remissa *Pylo*.
 Misimus & *Sparten*, *Sparte* quoq; nescia veri
 Quas habitas terras aut vbi lentus abes.

I. ij.

Conclu.

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Conclufionis fententia tandem vicesimo primo fecundoq;
verfibus per contrarium fignificatur.

Vtilius farent etiam nunc mœnia *Troia*.

Ita fcor votis heu leuis ipfa meis.

Sed & ipfi conclufioni amplificatio accedit ex adiunctis : fex
funt verfus :

Scirem vbi pugnares, & tantum bella timerem,

Et mea cum multis iuncta querela foret.

Quid timeam ignoro, timeo tamen omnia demens,

Et patet in curas area lata meas.

Quæcunq; æquor habet, quæcunq; pericula tellus,

Tam longæ caufas fufpicio efle moræ.

Quamobrem cum hac interpretationis diligentia puer totam
fententiam diflinxerit, vel à diligenti præceptore diftinctam
acceperit, & ex octo & viginti verfibus, quatuor propofitioni,
fexdecim affumptioni, & octo conclufioni tribuerit, hac fyllo-
gismi difcriptione non folum partes, fed partium quoque fen-
tentiam fibi repræfentabit. Nam cum fcierit hic primo loco
propofitionem, fecundo affumptionem, tertio conclufionem
efle, fciet itidem ex cognitis fyllogismi legibus quæ vis cuiuf-
que partis efle debeat : quinetiam hac ratione facillimè præ-
fentis animo concipiet, per quas, imagines rerum abfentium
ita fubijciet animo, vt cernere oculis ac præfentes habere vi-
deatur. Vt in hoc exemplo concurrent antiquæ vrbs ruinæ,
agricolæ, offa, nautæ, mulier follicitè interrogans, tabellarij,
bella, naufragia, cædes. In longioris autem orationis & difpu-
tationis ambitu, præfertim fi methodus feruata fit, memoriæ
præfidium præcipuum erit. Exemplum noftra dialectica cōmo-
difsimum erit, vt dialectica fuijplius in primis memoriam con-
firmet, quæ alijs operum confirmandæ memoriæ pollicetur. Figu-
retur igitur hic primis rerum notis, artis dialecticæ fuma &
vniuerfa partitio, quæ quod dicimus, oculis etiam fpectandum
proponat.

Logikæ

[**]

Itaq; propositis hoc modo distributisq; rebus, vt verborum quoq; contextus facilius ediscatur (qui ab arte auxilij nihil admodum capit, nisi forte quod res ordine distributæ sua vocabula secum rapiant,

Verbaq; prouisam rem non inuita sequentur) accedat, si placet, meditatio, vt per partes paulatim memoria ducatur: quinetiam modica voce in meditando animus excitetur, vt duplici motu dicendi & audiendi memoria iuuetur: tum si quæ ratio memoriam possit adiuuare, illa dispositionis admonitio iuuabit: licebitq; philosophis & oratoribus, qui locis & imaginibus artem quandam memoriæ confinxerunt, per nos quidem valere: nihil enim pollicentur, quod non vberius multo faciliusq; teneamus. Aiunt enim ordinem prodesse memoriæ, sed externis & commentitijs eam signis & simulachris instruant, nos ordinis rebus insiti doctrinam certissimam & veros locos pro rerum gradibus & generibus distinctos, rerumq; verissimas imagines adhibemus: illi verborum memoriam infinitate formarum conturbant, dum propter singula verba ad singulas species est respiciendū: Nos hanc partem rerum compositione & collocatione, quantum natura fert, adiuuamus. Quapropter quicquid est, quod ad confirmandam memoriam doctrina possit efficere, id totum dialecticę dispositionis doctrina præstabit.

Hitherto Ramus concerning the helpe of memory by Logickall disposition: to the which counsaile of him, if we adde some comfoꝛtable simples, & haue a careful head y^e we distemper not our selues either with vnorderly dyet, or vnhoneſt exercise, I am perswaded it will be moze auailable, then all the volumes of the art of memory.

Examples of the perfect methode, appeare in the artificial putting downe of Arts (as in this type of Ramus his Logike already drawn) & also in some other philosophicall discourses.

For our Halender, although shepheardes bee not woont to binde themselues to any ouerſtrict methode in speaking, yet that song of Colyn Clowt rehearsed by Hobbynoll in May, may make vs beleeuē, that euen shepheardes, by the light of nature, did, asmuch as in them lay, expresse this methode in their speeches. For there be, after a poetical in-

The second Booke.

uocation, and generall proposition of that which he hath in hand, I meane the prayles of Elysa. commeth nearer & matter, and first putteth downe the causes, then aduantes, and other arguments, incident to Elysa.

In head of a definition we may vse this generall propounding of the matter: then deuide it into some fewe heades: and orderly discourse of euery head, vsing the places of inuention, the helpe of iudgement &c.

Sir William Stamford in his crowne plees doth first define and propound, thus:

Plus del corone sont les ples queux conteignōt l'offences faits enconter la corone et dignitie le roy, perque pur le mieulx entendement de eux, est requisite a veier queux sont les dits offences: et puis de la maniere coment ils serront plebus, et darreinement de la manier coment ils serront tries et iuges. And so goeth on forward, defining, diuiding, and making playne by examples all the speciall sortes of offences against the crowne.

Bracton foloweth the order of the ciuill law altogether, insomuch that he that hath seene the one, may easily iudge of the other.

Perkins in euery of his seuerall tractates doth, as Stamford, propounde, diuide, and adde examples.

Lyttleton in like maner, by definitions, diuisions, and induction of speciall cases inkeede of so many examples, made vp his booke.

Maister Theloall tooke occasion (as in his preface to the Lord Chancellor he confesseth) by Stamfords good motion, to make a moze methodicall discourse of wittes, then was exsant heeretofore. I will vse his owne wordes to shew hys owne order.

Pour ceo que mon entent est de entraiter de bziefe, et des choses concernantes bziefe, il moy semble conuenient de commencer per la definition de bziefe, et de monstter quelle chose il est.

And afterwards, I ay enterprinse de framer vn definition, ou plustost discription de bziefe solong: le forme et doctrine d'eux, que le art de ceo professant, per les genres, differences,

properties, en tiel manier, &c. The definition I haue put downe in the first booke.

Then hauing defined it, he saith, me voyes a diuider mon brieve.

After the diuision hee vseth a transition, wherein he briefly telleth, what hee hath done, and orderly declareth what remaineth to be done mozeouer.

Which kinde of Transitions, wanting in Lyttleton, make the coherence of his discourses somewhat obscure, as in that tractate of estates sur condition, where hee first diuideth conditionall estates, thus:

Estates que homes ont en terres ou tenemens sur condition sont de deux maners, s. ou ils ont estate sur condition en fait, ou sur condition en ley. And after the laying downe of so many seuerall cases of the first part, as could be conteyned within the compasse of sirteene leaues: hee immediatly, if not abruptly, proceedeth to the explication of the second, without any transition at all: neither telling what was done, nor what was to be done. So also in the discourse of releases, he first denieth releases thus. Releases sont in diuers maners, s. releases de tout le droit que home ad en terres ou tenemens; et releases d'actions personels et reals et autres choses. And then hauing bestowed ten leaues wholly vpon the first member of his distribution, hee sets vpon y second part suddenly without any warning giuen at all.

Digressions be sometimes tolerable vpon necessary occasion: but impertinent, or rather repugnant imaginations continually cast in, marre all. A man taketh vpon him to reade vpon the statute of fines, and hee thurrameth in 50. scattered & undigested cases of estate tayle in possession, and as many of the same in reuerſion, with a cluster of other sophisticated and vnoherent poynts, much like a foolish paynter, who because he had some litle skill in paynting a pearre tree, but no running at all in expressing anything els, would be sure to make a pearre tree grow on every mans wall. So this fellow hauing met with some odde learnings of estate tayle, will needes haue utterance for it. An other maketh every case haue one idle poynt of a fine, for fashion sake, whereas
 hee

The second Booke.

he sayeth in 6. 8. 10. 12. of moze extrauagant conceits, as well agreeing with the nature of a fine, as a Harpe doth with a Harrow; yet, who but he? Non equidem inuido: miror magis, at the frenzie of the reader, and folly of the hearer. For if the readers intent be to explyne the statute, then quorsum hæc tam putida tendunt? but if he meane to make ostentation of all his imaginations, me thinks he should not make a well meaning statute the cloake of two hundred ambiguities. I graunt the matter may be well worth the bearing, but Nunc non erat his locus: Therefore as Horace sayth.

Amphora caput,

Institui, currente rota, cur vrceus exit?

To conclude I could heartily wish the whole body of our law to be rather logically ordered, then by Alphabeticall breuiaries to me and dismembred. If any man say, it cannot be, he should adde, by himself: if he thinke it should not be, then I doe not somuch enuy his great wisdom, as pitie his rusticall education, who had rather eate Acornes with hogs, then bread with men; and preferreth the loathsome tossing of an A. B. C. abridgement, befoze the lightsome perusing of a Methodicall coherence of the whole common law.

Yet I am not he, that will once open my mouth, generally to condemne the contracting and abridging of dispersed & tedious cases: But as, Lyttleton, Parkins, Stamford, Theloall, Bracton and Britton haue excelled the abridgers in light and order. so the paynefull abridgements of Statham and those reuerend Judges Fitzherbert, and Brooke, are moze conuenient for many purposes, then those vast heapes of scattered discourses, throwne into every corner of our yeare booke: Which, notwithstanding, are diligently to be reseynd: but the matter may be, for the benefite of students, moze orderly contriued.

It is not my purpose, at this time to dispute, whether the law of England, being one onely proper, and singular law, appropriate to our nation, consisting of so many particularities, being subiect to such continuall change and alteration, can be made an art: But that the confusion of writers may be remoued, the maner reformed, the matter better ordered,

I doe surely beleue, because I know assuredly.

Thus haue I at last, made an end of a confused meditatio, patched vp, I feare me, rather in great hast, then with good speed. Wherein I thinke the art of Logike to be as I haue put downe: but the precepts of the same must be continually practised, as I haue elsewhere sayde, or els the generall contemplation thereof will proue a fruitles conceipt & naked speculation. Let vs solow therefore the counsell of Apelles; Nulla dies sine linea. Let no day passe without some practise, either in making, framing, and inuenting of our selues, or in resoluing & dissoluing of things done by others, for the triall of their skil, and confirmation of our owne. Neither would I haue this practise continued onely in reading or wryting, but in euery ciuill assembly or meeting: wherein yet I will not be so seuerer a censor, as to exact euery speech to the formall rules of axiomes, syllogismes, &c. It shall be sufficient for vs to solow a more easie and elegant kinde of disputation, ioyning Rhetorike with Logike, and referring that precise straitnesse vnto Philosophicall exercises.

Perther let any man thinke, that because in common meetings and assemblies the wordes and termes of Logike be not named, therefore the force and operation of Logike is not there bled and apparant. For, as in Grammer wee name neyther Noun, Pronoun, Verbe, nor any other parte of speech: and as in Rhetorike, wee make mention neyther of Metonymia, Synecdoche, Exclamation, nor any other Rhetoricall figure or trope: yet vse in our speech the helpe of the one in speaking grammatically, and the direction of the other in talking eloquently: so, although in common conference wee neuer name syllogismes, axiomes, propositions, assumptions, & other wordes of art, yet doe wee secretly practise them in our disputations, the vertue whereof is, to make our discourses some true to the simple, and probable to the wise.

I haue, for examples sake, put downe a Logicall Analysis of the second Aegloge in Virgill, of the Earle of Northampton.

Ik.

Northampton.

The second Booke.

Northumberland case in *Spaister Plowdens reports*, and of sir William Stamfords crowne pléas. For the Aeglogue although the verses of Virgill be better knowne in Latine, then I can make them vnderstode in English, (especially obseruing the same order of verse) yet I haue attempted the interpreting of the same by a poetickall Paraphrasis, for the contentation of such as vnderstand no Latine: & with all inserted the Latyne verses, for their pleasure, that dislike the English.

Alexis 2. Aegloga Virgilij.

Formosum pastor *Corydon* ardebat *Alexis*:
Delitias domini, nec quid speraret, habebat.
Tantum inter densas, vmbrosa cacumina, fagos.
Assidue veniebat. Ibi hæc incondita solus
Montibus, & syluis studio iactabat inani.

O crudelis *Alexi*, nihil mea carmina curas;
Nil nostri misere; mori me deniq, coges.
Nunc etiam pecudes umbras & frigora captant:
Nunc virides etiam occultant spineta lacertas:
Thesyllis & rapido fessis messoribus æstu
Allia, serpyllumq; herbas contundit olentes.
At mecum raucis, tua dum vestigia lustrò,
Sole sub ardenti resonant arbuta cicadis.

Nonne fuit satius tristes *Amaryllidis* iras,
Atq; superba pati fastidia, nonne *Menalcam*,
Quamuis ille niger, quamuis tu candidus esses?

O formose puer, nimium ne crede colori:
Alba ligustra cadunt, vaccinia nigra leguntur.
Despectus tibi sum, nec quis sim, quæris *Alexi*,
Quam diues pecoris niuei, quam lactis abundans,
Mille meæ Siculis errant in montibus agnæ.
Lac mihi non æstate nouum, non frigore desit.
Canto, quæ solitus, si quando armenta vocabat,
Amphion Dirceus in *Actæo Aracyntho*,
Nec sum adeo informis, nuper me in littore vidi.

Cum placidum ventis staret mare, non ego *Daphnim*
Iudice te metuam, si nunquam fallit imago.

O tantum libeat mecum tibi sordida rura,
Atq; humiles habitare casas, & figere ceruos,
Hædorumq; gregem viridi compellere hibusco.
Mecum vnâ in syluis imitabere *Pana* canendo.
Pan primus calamos cera coniungere plures
Instituit: *Pan* curat oues, ouiumq; magistros.

Nec te pæniteat calamo triuisse labellum,
Hæc eadem vt sciret, quid non faciebat *Amyntas*?
Est mihi disparibus septem compacta cicutis
Fistula, *Dametas* dono mihi quam dedit olim,
Et dixit moriens, te nunc habet ista secundum:

Dixit *Dametas*, inuidit stultus *Amyntas*.
Præterea duo, nec tuta mihi valle reperti
Capreoli, sparsis etiam nunc pellibus albo,
Bina die ficcant ouis vbera, quos tibi seruo.
Iampridem à me illos abducere *Thesylis* orat:
Et faciet, quoniam sordent tibi munera nostra.
Huc ades, ô formose puer, tibi lilia plenis
Ecce ferunt nymphae calathis: tibi candida *Nais*
Pallentes violas, & summa papauera carpens,
Narcissum, & florem iungit benè olentis *Anethi*.
Tum *Casia*, atq; alijs intexens suauibus herbis,
Mollia luteola pingit vaccinia caltha.
Ipse ego cana legam tenera lanugine mala,
Castaneasq; nuces, mea quas *Amaryllis* amatat:
Addam cerea pruna; & honos erit huic quoq; pomò:
Et vos, ô Lauri, carpam, & te, proxima myrte:
Sic positæ quoniam suauis miscetis odores.

Rusticus es, *Corydon*, nec munera curat *Alexis*:
Nec si muneribus certes, concedat *Iolas*.
Eheu quid volui misero mihi? Floribus austrum
Perditus & liquidis immisi fontibus apros.
Quem fugis ah demens? habitarunt dii quoq; filius,
Dardaniusq; Paris, *Pallas* quas condidit arces,
Ipsa colat: nobis placeant ante omnia filux.

The second Booke.

Torua læna lupum sequitur; lupus ipse capellam;
 Florentem Cithysum sequitur lasciuia capella,
 Te *Corydon*, ô *Alexis*: Trahit sua quemq; voluptas.
 Aspice, aratra iugo referunt suspensa iuueni,
 Et sol crescentes decedens duplicat umbras;
 Me tamen vrit amor, quis enim modus adsit amori?
 Ah *Corydon*, *Corydon*, quæ te dementia cepit?
 Semiputata tibi frondosa vitis in vlmò est.
 Quin tu aliquid saltem potius, quorum indiget usus,
 Viminibus, molliq; paras detexere iunco?
 Inuenies alium, si te hic fastidit *Alexis*.

The same in English Hexameters,
verse f. r. verse.

SEelly shepheard *Corydon* lou'd hartily faire lad *Alexis*,
 His maisters dearling, but saw no matter of hoping.
 Only amid the forest thick set with broad-shadoc beechtrees
 daily resort did he make: thus alone to the woods, to the mountains
 With broken speeches, fond thoughts most vainly reuealing.
 O hardharted *Alexis*: I see my verse to be scorned,
 My selfe not pitied, my death by thee lastly procured.
 Now do the beasts eûn seeke for cooling shade to refresh the,
 Grene lyzards now too in bushes thorny be lurking,
 And for faint reapers by the suns rage, *Thestylis* halstning,
 Strong-smelling wilde thyme, and garlyke beates in a mortar.
 But whilst I trace thee, with sun beames all to bescorched,
 Groûes by the hoarschirping grasshoppers yeeld a resounding;
 Wast not far better t'haue borne with surly *Menalcas*,
 And sore displeased, disdainfull, prowd *Amaryllys*,
 Although thou white were, although but swarty *Menalcas*?
 O thou faire white boy, trust not too much to thy whitnes:
 Faire white flowers fall downe, black fruits are only reserued,
 Thou cârst not for mee, my state thou knowst not, *Alexis*:
 What flocks of white sheepe I do keepe, of milke what abundance
 On *Sicil* high mountains my lambs feed more then a thousand:
 New mylke in summer, new mylke in winter I want not.

Mx

My song's like *Thebane Amphions* song, when he called
His wandering bullocks, on Greekish mount *Aracynthus*,
Neyther am I so fowle : I saw my selfe by the seashore,
When seas al calme were : I doubt not, but by thy censure,
Daphnis I shall surpasse, vnles my face do deceaue mee.

O, let this be thy will, to frequent my rustical harbors,
And simple cotages, and sticke in forkes to vphold them,
And driue on forward our flocke of kids to the mallowes :
Wee wil amid the forest contend *Pans* song to resemble :
Pan was first that quilts with waxe ty'de ioyntly together.
Pan is good to the sheepe, and *Pan* is good to the sheepsman.
Neither think it a shame to thy selfe haue plaid on a cornpipe :
For, that he might do the same with skil, what did not *Amyntas*?
Dametas long since did giue me a pipe for a token,
Compact of seuen reedes, all placed in order, vnæquall :
And thus sayd, when he dy'de : One vsed it onely beefore thee.
Thus sayd *Dametas*, this greued foolish *Amyntas*.

Also two pretty kids doe I keepe, late found in a valley
Dangerus : & their skins with mylke white spots be bedecked,
Of dams milke not a drop they leaue; & for thee I keepe them,
Thestylis of long time hath these kids of me desired ;
And they shalbe her own, for that thou skornst what I giue thee.
Come neare, ô faire boy, see the nymphs bring here to the lillies
With full stufft baskets : faire *Nais* now to thy comfort
White violets gathering, and poppies daintily topping, (Dill.
Daffadil ads to the same, & leaues late pluckt fro the sweete
Then mingling Casia with diuers sauory sweet flowers.

With yelowish Marygold, she the tender Crowtoe bedecketh.
He plucke hoare quinces, with soft downe all to besmeared,
And Chesnuts which were loud of my sweet *Amaryllis*.
Add wil I wheateplumbs too : for this fruit will be regarded,
And you laurell leaues wil I plucke, and thee, pretty myrtle
Next to the laurell leaues : for so plâst yeeld ye the sweet sent.

Th'art but a foole *Corydon*, for first gifts mooue not *Alexis*,
Then, though thou giue much, yet much more giue wil *Iolas*.
But what alas did I mean, poore foole? I do let go the southwind
Into the flowers, & boares send forward into the cleare springs.

K k. iij.

Whom:

The second Booke.

Whom flyest thou mad man? Many gods haue also resorted,
And *Paris* of olde *Troy*, to the woods. Let towers by *Minerua*
Built, by *Minerua* be kept; and woods of vs onely regarded.
Grim *Lionesse* runneth to the wolfe, & wolfe to the yong gote,
And wanton yong gote to the flowring tetrifol hastneth,
And *Corydon* to *Alexis*: a selfe ioy draweth on each man.
But see the plow eoms home hangd fast by the yoke, to the bul-
And shadoe by *Phabus* declining double appeareth: (locks,
Yet do I burne with loue: for what meane can be to louing?
Ah *Corydon*, *Corydon*, what mad rage hath thee bewitched?
Thy vin's scarce halfe cut, pestred with leaues of her elme tree:
Leaue this churlish boy, and bend thy selfe to thy busnes,
With twigs and bulrush some needefull thing be a making:
Thou shalt find others though th'art disdaind of *Alexis*,

There

First the propounding of the argument, which is of the incontinency of a louer lamenting his loue in solitary places,

There bee,
saith Freigi-
us 2. partes
of the Aeg-
logue.

Secondly
the com-
plaint and
lamentati-
on of Cory-
don the lo-
uer, spea-
king

First to
his loue,
and that
by

DDD

First by comparis-
son of the vnlikes,
the proposition con-
sisteth of thre vn-
likes, the beastes,
Lysardes, and reas-
pers seeke shade: the
reddition is, but yet
I burne with loue.

2. By the lesse A-
maryllis and Menal-
cas are too cruell, but
thou moze cruel then
they.

3. By the cause of
his pride, whiche
was his beaurtie, and
is extenuated by a
simile. As white
primprim sales, but
blacke Violets bee
gathered, so beaurtie
decayes, and black-
nes remaines.

Accus-
ing his
crueltie,
which is
argued

Enticing him to come to his
house to sing, to dye the Rides
to the Gallowes, &c. and that
by praising of himselfe by his
adiuncts.

AAA

The lecond Booke.

Rich, and his riches be proued by speciall } his lambs
his mylke.

Skilfull in
singing, and
that is proued.

By a comparison of the equall, in that
hee is equall to Amphion : and here
an oblation is presented by a compa-
rison also of the equall : neither thinke
it a shame to play on a pyper, for Amyn-
tas thought well of it. Then the people
of his singing is continued by his
pyper, and his pyper by the auter that
gaue it, which was Dametas, and ano-
ther that enuyed it, to wit Amyntas.

AAA
Corydons
aduantages be
these : he is

fatre & comly:
it is proued by

The adiunct of his image in the water
Comparison of the equall, as was
Daphnis.

franke and
free, which is
proued by his
sundry giftes.

1. His kyddes, commended by their
aduantages, in that they were white
spotted, well sucking, and desired of
Thestylis.

2. His basket of sweete
flowers gathered by the
Symphes, they be hearbs
and also flowers, as,

Lillies.
Violets.
Poppy.
Delle.
Daffadil.
Cassa.
Marigold
Crowtoe.

3. His
diuerse
kindes of

fruits as
Tonghs
as bee

Quinces.
Checnuts.
wheatplums.
The Lawrell.
The Myrtle.

in the first hee
noteth Alexishis
pride by two As-
milies, & fourth
winde, and the
boare.
in the second he en-
treateth againe,
by the equall as
Paris, and the gods
sc.

First a
double
exclama-
tion: and
here

adluncer,
pride, and
contempt
of hys
gifts and
here is

the first is
both of
the

double cor-
rection of
calling
backe of
himselke.

More, or
greater,
for tolas
gaue
more large
ly then
hee.

Secondly a permission by
the unlike. Let Pallace keep
her Pallaces, and wee the
woodes which is our des-
light. The reddition is
made playne by comparison
of lykes: where also the ge-
nerall is concluded by the
specialles in a Cypriax of
three degrees. Cypriax Les-
sonesse to the Wolfe sc.

DDD
Secondly
to himselke;
by reflecting
himselke, as
it were, and
here is con-
teyned
both a

theses
cond is
of the
adluncer
both of

The tyme, where there is a Paraphra-
sis of night, and an argument of the
diuers, albeit the heate of the sunne is
mitigated by the coming of the night,
yet I burne still with loue: the reason
followeth of the adluncer of loue: for
loue hath no meane.

busknesse
in ma-
king some
needfull
thinge
of twigs
and bus-
knesse.

Remedy
of loue by
contraries
which be:

his bus-
knesse neg-
lect, where
is a double
negligence
of

his vine
halfe cut

his elme
full of
boughes

for both be
naught.

and hope of some other
louer, it Alex. South
the first of the first.

A Logicall Analylis of the

For the Carle of Northumberland's case, I haue rather shewed what is done by maister Plowden, then what might haue bene done by a better Logician. Le matter suit argue en Leschecquer M.9. & 10. Elis. deuant tous les Justices d'angleterre et Barons deshecquer, per Onslow Solicitor, Gerard Attorney, Wray & Barrham serians le roigne, del part le roigne: et per Shirborne et Bell. appretices et Meade serians del part le Couste. Le case suit tiel; l'attozney le roigne informe le court, que ou le roigne doy auer tous mynes de oze et d'auber mettail conteignant oze per prerogative, el 10 Martij, An.8. regni sui esteant seisse en son demesne, come de fee en droit la rozone, del wast dit Newland, in com. Northumberland, en queur certene beynes de quyre sont, conteignants oze; assigne T. & D, de sower &c. queur solvont 600000 poys &c. et le Counte euz disturbe le Counte, protest: que le roigne ne doit auer per prerogative &c. pro ple dit, que quant al 500000 parcel del 600000, le terre in que &c. suit done al counte per patent le roy et roigne P. & M. dat. a Richmond, le 15 del August 4. & 5. An. reg. &c. ex gratia speciali, certa scientia, & mero motu suis &c. et que il disturbe &c. et auerra, que cest beyne suit ouert pimes puis le dit 15 iour del August. an. 4. & 5. reg. &c. s. 1. April. an. 7. Elis. et traaverse le seisine le roigne le dit 15. iour del March. Et pur les anter 100000, residue del 600000, il plede patent le dit roigne del honoz del Cokermouth, oue wrecks, mines, &c. et que le myne in que &c. suit ouert iour del date del patent et deuant &c. issint il disturbe prout bien a luy list. sur que l'attorney le roigne, demurre en ley. Les points sont generall, ou speciall. les general points sont deux: le pimer, si tous mynes d'oze et argent in terres del subiects, oue poyar de sower le terre et asporter le oze &c. apperteigne al roy per prerogative, car nest in le treatise de prerogativa regis et le sower futch le franchtencement et l'inheritance d'auber. Le second, si mynes de Copper conteignant oze ou argent, perteigne al roy vt supra. Le proper et speciall point que immediatement concerne le case del Counte, est, si les mynes de quyre coteignant oze ou argent, perteigne al roy per prerogative, Vtrum le graunt P. & M. del terre en le pimer case, et de tous et singuler mynes en l'auber case per patent de gratia &c. fait les mynes de passer del euz al dit Counte, on nemy.

¶ doncques pimerment est a dire de les arguments de les dits.

dits serians et apprentices, puis de le iudgment et opinion des Justices.

Les arguments del primer point, pur le roigne, sont in confirmando, ou confutando: les confirmant arguments sont inherent ou bozowed, come testimonies et autozities: les inherents sont quater, et Onflow fait troyz de euz, et Gerard le quart.

Les choses plus excellent del mer et
cave pertaigne al roy per comō leg. A A.

Les choses
plus excellentes
del terre per-
teigne al person
plus excellent
que est le roy: pro
batur a pari.

Ergo et ceux del terre, come oze et ar-
gent,

Le primer est
derive del ad-
tunct excellency
del royet de ceux
mettayles. &c.
sic,

Mes oze et argent sont le plus excellent choses del
terre:

Ergo oze et argent pertaigne al roy, &c. et les mynes euz
contaignants &c.

A A.

Cest premier part del encheuisme est confirme par nouel scilicet, contenant un argument del special, ainsi continue.

Le comen ley approprie al roy sturgions et balenues que sont detrs le mere en enleterre: s les baches del mere: et ceo est ppeue per deux testimoies. Des del choses de la mer, les piches, et de piches, les sturgions et balenues sont plus excellentes. Ergo le comen ley approprie al roy les choses plus excellentes de la mere et eau.

Le premier est de trea- tise de prerogatiua re- gis, cap. 11. (que nest nouel ley, mes declaras- tio del comen ley) i. Rex habebit balenas & stur- giones captos in mari, vel alibi infra regnum.

Le second est del Britton que escey l'og temps des- uant le treatise de pre- rogatiua regis et il mon- stre en son chapitre de trouours que le roy au- uera les piches per pre- rogatiue per le comen ley en son temps.

Le second argument est del cau- ses principalls et coadiuants: s. le roy, et le treasure: queux ambideux deuont concourir al magnificence del realme:

Il est reason que il que ad le regiment et tutel del people come principall cause, queux il ne peult defender sans adiuant et instrumentall causes, aueroit ces aydes et causes adiuants. Des l'office le roy que le ley a luy ap- point est de defender les subiects: et le treasure, que est terme les fenows del guerre, est le adiuant cause pour de- fender eux vers tout hostilitie. Ergo il est conuenient que le roy auerere le treasure et mynes de ore et argent, en queux consist cest treasure.

Le tierce contaigne un final cause
et vse del money que est, d'estre
coigne, printe, et baue. Car don-
ques solement il est currant par
le comortie del subiects en leur
mutual comurcion ou traffique

Que il apperteigne de mettre certelne
print et pze sur le oze et argent issint que
il port estre disperse enter les subiects,
per entrecourse de merchandise, vender
achater &c. A cestui il apperteigne d'aueir
l'oze et argent.

Mes ces choses tant solement apperteig-
nont al roy mesme, et a nul autre. Car il
fuit graund treason per le comen ley de-
uant l'estatute de Anno. 25. E. 3 ca 2. come
il apert per 23 E. 3. lib. ass. ou feme fust
aise pur fauxer ou counterfeisser money

Ergo al roy apperteigne les mynes et o-
res del oze et argent.

Ceo que ouste le conueniency et bone pro-
porcion del members del bien publique en
feasant le subiect et seruant greinder que
le roy et gouernoz: doyt estre remoue hors
del bien publique, come chose pernicious
et causant rebellion, contempt, et honoz en
le subiect, mes deposition, perill, et dan-
ger en le roy.

Serard fait le quart argument.
contaignat les pernicious effects
del cest donation de oze et ar-
gent al subiects.

Mes le graunting del mynes de oze et ar-
gent al subiects fait &c.

Ergo ceo doit estre remoue hors del bien
publique.

A Logicall Analysis of the

Ceo que est vse de temps del un roy puy
auter, oue l'assent del iudges et auters sages
del ley, et dont les charters et recozdes sont
enrolles en leschequer, come choses de effect,
et come foundations al accompts, ne poert
estre dit tozious. Car ley n'est seye si non
per vse, et vse proue que il est ley.

Que est adire del testimonies
queux sont de deux genres:
les pmyers sont matiers de
recozd, et charters le roy: les
autres sont escripts, dictes, et
edicts del certein homes:
primmermet par les pmyers,
mittomus cest foundement
deriue del effects et vses et
customes del pzedecessors, et
certein adinnces incidents
a les dits choses.

Mes que mynes de oze et argent, en auters
soplez sont al rogne per prerogative, est con-
sonant al vse &c. Vide, A A A.

Ergo il n'est tozious.

aluns sont charters fait de graunt de
mynes de oze et argent en auter soplez:
Vide, O O.

primmermet
recitees et
sont en tropz
maners,

Aluns prouont accompts de reuenue
del tyel mynes en auter sople, d'estre ren-
due al roy. R R.

A A A.

Le minoz est con-
firme per diuers
pzedentes, et mat-
ters de recozd hozs
de leschequer q; est
le court del reues
nues le roy en teps
de diuers royes:
les recozds sont

Aluns prouont que le roy ad impled
pernours del proste des owyes &c. in
terre de auters. N N N.

Quoy, leur antozitte est confirme.

BB.

OO, Les

1. En temps le roy . E. 3. 32. Anno.
2. Fuit charter le roy : R. 2. 8. en le explica-
cion du quel, est conieigne cest syll :

Si le owze de oze et argent est al roy, le ley done
a luy meanes de venter a ceo, que est per fower.

Mes le owze de oze et argent est al roy.

OO.

Les recozds del 1. genre
sont hugz :

Ergo le ley done a luy meanes de venter a ceo,
que est per fower.

3. Per le roy . H. 4. 2.
4. Per le roy . H. 6. 5.
5. Per le roy . H. 6. 11.
6. Per le roy . E. 4. 15.
7. Per le roy . E. 4. 18.
8. Per le roy . H. 7. 1.

L'un accoumpt fuit fait et rendue en l'eschequer
sur le lease del mynes de oze et argent et quiure
fait per le roy Ed. le tierce a Iohan Balauncer, et
VValter Goldbeater : per quel apiert que le roy
fuit responde del 20. markes pur le pprimer an,
et vrens pur le second an, pur ceo que les lessces
mozeront, et le roy auoyt graunte les mynes as
autres.

RR.

Ceux de second espere
sont deux :

L'auter accoumpt fuit fait per Henry euesque de
VWinchester Cardinal d'engleterre, vn del exes
cutoz John Duke de Bedford, fermour de les
mynes de oze et argent en les countees de Des
uon. et Cozn. de le 15. part del pure argent re-
serue sur le graunte, & de le 15. iour de Decem-
ber an : 22. H. 6. tesques al 16. iour de August
an. 23. mesme le roy : et sur ceo accoumpt il rende
trent six lyuers pois de pure argent, et deux
ounces surdant de mesme le 15. part.

NN. N'est forsques, vn exemple de perinours del owze, impledees
per le roy. 36. H. 6. f. ceo de Roger Chambermoume, que pur son discharge
fuit chafe de suer al roy pur pardon, sachant per son counsel, que il ne
puyt defender le matter per le comen ley.

BB. Lauto

B B L'autoprie del recozds auandis est confirme en deux maners .i. per vng general axiome. que est tel, les Recozds de chescune court sont le plus effectual pproves del ley en choses treates en ceo court: et ceo que est vse en vn court, est ley en tous courtes, et per tout le realme: sic hic, nul pprofe del reuerue le roy est plus fort que les recozds del court en que le reuerue est rend f. Eschequer. le axiome auandis est pproue per le particulier enume ration de les special matters subiects del courts le roy, Car

Quant al matters del cozone, .s. en appeales de felony, et endyte. mentes de raurder et trefon, et trels semblables, si question surde, quel est ley en trels choses et quel non, les Recozds del bank le roy, sont le plus effectual pprofe de ceo: et ceo que est vse la doit estre puse come pprofe del ley per tout le realme. Car ceo court treste de tiels choses et a iurisdiction de eus, et les recozds la, sont tesmoignes del ley en ceux points.

Et les Recozds et precedentes del comen bank, in le pproerte de bichs ou chatels reals ou personnels, ou d'otes ou trels en terres et tenementes.

Ergo eodem modo les Recozds del eschequer, pur choses concernant le reuerue le roy, et que apperteignent al roye et que pozt ou attrait reuerue al roy, et ceo est confirme per le recital del special cases dont ingemens fuit donc accordent a Recozds del eschequer. **Al. Al.**

Primerment le case de Littleton cap. locag. que action de accompt ne gist vers exccutoys pur aucun, si non pur le roy tantselement, est proue per le Recozds del eschequer, lou accompts pur duittes le roy sont discutee & responde, et que accompera, et que nemy.

2. In le case bouche per Littleton cap. de grand seruantie, hors del. 11. H. 4. Cockein chiefe baron de-
maund des iustices del comen bank, si vn tient del roy a trouer a luy vn home al guerre deins les 4. meres, si fuit grand seruantie ou nemy, ou fuit res-
ponde, que fuit: et adonques il demaund si le roy as-
uera reliese solongue le value del terre ou nemy, ad
quod non fuit responsum, car ils ne besoigne de res-
ponder luy a ceo, pur ceo que si fuit grand seruantie,
il poet seyr per le vsage en le eschequer, quel summe
il papera &c.

3. Et dillonques vient le notice del ley a Littleton,
que si le billeine le roy purchase biens, et alien eur
deuant seiser, que vncors le roy poet eur seiser apres,
car tpelement fuit le vsage del eschequer, en quel
court tiels biens fueront respondue al roy, et la il
appyste, quod nullum tempus occurrit regi.

4. In le case sir William Sentlow, que a
marie le feme de sir William Candish, mise per Gerard
per que il apiert. que si aucun est accomptant al roy,
ou si aucun money ou biens ou chatels personals del
roy, beigne al mains dascun subiect per matter de re-
cozd, ou matter en fait, que le terre de tiel subiect est
charge pur ceo, et subiect al seisure le roy, en quecun-
que mains que il beigne apres, soit il per discent, ou
purchase, ou antement.

5. Et sur semblable reason le case est rule in 50.
lib. Ass. lou vn R. auoit receue certeine biens de sir
Hugh Spencer que fuit atteint, per que les denyers
attient al roy. R. que auoit les toptement oue sa
feme, mozt: et per agreement de tous les iustices,
le terme en les mains le femme suruiuo: fuit charge
al execution le roy pur les denyers. Car le roy puit
auer execution de ceo en le vie le baron, que fuit gar-
rant per moultz recozdes en le eschequer.

Mm,

Jcsques

MM.
Les speciall cases
sont ceuz

A Logickall Analysis of the

Les repozs de nostre ley sont fait par le plus grand part de les parols et dijs de les iudges, et ceo en que ils assenont est prise de estre le ley.

Jesques icy nous auons propose le confirmation del Recordz, per vne generall axiome prouee per diuers specialz: oze est a dire del secōd pzoof, que est vn argument a fortiore,

Ergo a fortiori lour iudgements et lour affaires entres de Recordz en courtes, doient estre prise de cy grand, ou plus grande effect, que lour parols, ou dijs.

Oze est adire de second kinde de testimonys s. de les escripts, dijs, et edicts de certein homes, Et sont quater. le quart de queux est illustre per vn argument a diuersis,

1. Fuit dit per Gerard que en le lyuer appelle expositiones vocabulorum que fuit mise en print 40. ans passe, il est declare que mynes de oze et argent en quecunque terres que ils sont, asseront al roys de realme.

2. Jussint Wray dit, que Heskett apprentice que fuit per bien apprise en le ley, en son lecture extant sur le statute de charta foresta, affirmast, que si fueront mynes de oze et argent en terre del subiects deins le foylest, que ceux asseront al roy.

3. Jussint il dit que il auoet bieu les leys de saint Edward le confessor, en queux fuit conteigne, quod thesauri de terra pertinent domino regi.

4. Jussint dit Barham del leys William Conquerour queux il auoet bieu, queux auoient semblables parolles, queux leys fueront recites a luy per les sages del realme a ceo iures, que ils deuant mesme le roy W. Conquerour verament reciteront les leys del terre, nihil pretermittentes. Queux parolles Thesauri de terra, les dijs seruaunts prissent pur owyes de oze et argent, et nient pur tresor troue. Car disoient que ils sont appellez, Thesauri in terra, et nemy de terra, et assent diuersa.

Tous les prerogatiues le roy sont conteignes
en le treatise de prerogatiua regis.

affers est dit de les arguments
que fueront in confirmando,
oze est besoigne de dire de les
arguments in confutando.
Car il poet estre dupliciter
obiect 1. tyelment per vn ar-
gument a toto.

Mes que le roy aueroit les oïres se n'est
conteigne en le treatise de prerogatiua regis.

Ergo n'est aucune prerogatiue le roy.

Primerment, le treatise de prerogatiua regis
n'est aucun cause per quel le roy aueroit ceux
perrogatiues. Car le effect ne poet preceder
le cause. Mes les prerogatiues la recitees en
maner tous fueront al roy deuant le dit trea-
tise escrie. Ergo ceo treatise n'est cause del
perrogatiues le roy, le minoz, ou assumption
est proue ab adiuncto temporis, car le plus
grand part de eux est recite per Britton en son
leueur en le chapitre de trouers et de droits
le roy quel leueur fust fait deuant le treatise
de prerogatiua regis.

Cest objection il est dupli-
citer respondue: Car le pro-
position, s. le maioz est faulse
par deux causes,

1. N'est aucun argument a toto ad partes,
car le treatise auantdit n'est totum, en respect
del particulier prerogatiues le roy. Car ceo
treatise ne conteigne tous les prerogatiues
le roy, mes part de eux: et issint le argument
nient conclude. Et il est proue que ceo trea-
tise ne conteigne tous les prerogatiues le
roy, per vn induction de moult special pre-
rogatiues, nient comprehends en ceo trea-
tise, tyelment, NN.

A Logicall Analysis of the

NN.

1. Le roy auera action ou suite d'accoumpt vers les ex-
cutours del testator le roy, per prerogative donc a luy per
le ley.

2. Il auera les biens son velleine vende deuant seifur.

3. Il seysera le terre que fuit a celly que doit render ac-
coumpt a luy, ou que auoyt receu ascune biens ou chateux del
roy, en quecunque mains que: mesme le terre veigne apzès.

4. Il poet wayuer issue, et demurrer en ley, ou eontra,
poet wayuer demurrer, et pleader al issue.

5. Il auera treasure trouue.

6. Il auera escheate de cux atteint de treason.

7. Deuant l'estatute de 1. Ed. 3. il aueroyt en fee le terre
tenus de luy, et alien sans licence.

8. Il auera, par satisfaction de sa det, ceo que est deliuer
en court en execution al deitour le roy. Ed. 3. 43.

9. Et le patron ne present deins 6. moys, et le euesque
et apzès luy de metropolitane suffer le lapp, ou si euesque
patrone, et le metropolitane suffer le lapp, le roy auera le
presentement, per son prerogative: 27. E. 3.

Et vncore ceux prerogatives ne sont recite en le treatise de
prerogativa regis.

Ergo le treatise de prerogativa regis ne conteigne tous les pre-
rogatives le roy.

Ceo que touche le franchtenement et inheri-
tance del subiect, ne doyt estre fait per le roy.

De second obiection est tyel
ab adiuncta iniuria.

Mes de foier terre, et prendre villongues le
owze, quel est part del soile, touche le frank-
tenement le subiect.

Ergo le roy ne doit ceo faire. LL

LL. 20

le primer est
a pari, a le
pareil.

Car siccome prescription et vsage
poet doner tyele ou interest al subiect
en le franktenement ou inheritance
le roy, come in commun, ou boy, ou
estouers clayne per prescription en
le terre del roy, ou en wayues,
estrages, wrechs, ou tiels semblables
pertinent de dyort al roy, et vncore
clayne per prescription per les sub-
iectes: Ilint et per mesme le reason,
prescription et vsage poet doner al
roy tyele ou interest en auter franke-
nement: cal il ne serra de pper cobditiō
que le subiect, que auera ceo per pre-
scription vers les subiects et vers
le roy.

L L.

Le maioz, le proposi-
tion du ceste pello-
gisme est false: que
poet estre proue per
deux arguments.

Le second est verine del vñ enumeration de speciall
pzerogatiues que le roy ad en franktenements daut-
ters. FF.

¶ m. iiij.

FF.

A Logical Analysis of the

1. Deuant l'estatute de magna charta, le roy per son pperogative puit entrer en auter boyz et pprendre arbrz pur reparation de ces castels.

2. Deuant l'estatute de charta forestæ. cap. 2. le roy puit affozester le boyz del auter homie per que il fuit restraigne de succider son boyz demesne sans licence.

3. Il apiert P. 7. H. 3. que le roy, et auter per son commandement poet enfreindre vn stowe, que est auter franchtenement, et pprendre le pische pur son pprovision per force de son pperogative.

4. Villeine, que est le franchtenement et l'inheritance d'un auter, vient en le ppresence le roy: le seignour del villeine, ne puit luy pprendre en le ppresence le roy, 27. lib. Ass. Car le ppresence le roy est pprotection pur luy pur le temps.

5. Si le roy ad rent charge en fee hoys del ascun terre il poet distreynner pur ces per son pperogative, en tout auter terre de cesty que le doys payer: 13. E. 4.

Mes en tous ceux cascs, le franchtenement et inheritance del auter est touche.

Ergo le roy poet per prescription auer pperogatives touchant le franchtenement d'auter.

FF.

Tous ceux arguments fueront fais del part le royaume. Ex parte comitis, Shirbourne sole, alledge le opinion de Newton: 19. H. 6. per implication d'elle al contrary: ou il dit, que si homie done terre en fee que ne vault 40. d. et percase le terre per casuel adventure en cell, come per myne de oze ou argent troue, vault per an 100. li.

Si l'impledee bouche le feoffor al garranty, il poet monstrier comment le terre ne vault fozsques 40. d. al temps de feoffment, et a cel il est pmiss d'entrer en le garranty, ceo serra bon plee, et ne garenterra plus que fuit al temps del feoffment. Mes si enter generally en le garranty, il rendra in value tant come il est oze: ex que dit (il dit) que fuit imply per l'intent del Newton, que le myne de oze et argent serra recouet oue le terre, et ne serra al roy.

Quant

Le p^{er}mer est qua-
si a parte precipua
que trapt a luy le
tout

Quant al second general
point fait inferre par le
roigne, que si issint soit
que le roigne auera per
p^{er}rogatiue tous les
mynes de oze et argent en
les terres de subiects, que
de ceo il boet ensuer en
maner come consequent,
que il doyt auer ceux ow-
res et mynes de quiure
oze en question, s. cybien
le cinquecent mille pois
contenus en le p^{er}mer ple
en barre, come l'auter
cent mille pois contenus
en le second barre: plusors
sont raisons.

Le sec^od est ab ad-
iuncta absurditate.

Si le oze et argent apper-
teine al roy, donques les
quiure apperteigneroit: car
le oze ou argēt et le quiure
sont ensemble, et en le soie
induisible, et leur commix-
ture fait euz come vne chose
entier: & omne magis dig-
num trahit ad se minus dig-
num, come oze et argent le
quiure: cest confirme per
troyz specialles que sont
semblables. (4.)

Mes le oze et argent ap-
perteigne al roy, et est con-
fesse que mesme szcentimille
pois de quiure conteigne
en soy oze ou argent.

Ergo le quiure a luy apper-
teigneroit.

Si quiure apperteigne al
subiects que ne poert estre
seuerer mes per founde, is-
sint le roy serroit seruant al
subiect pur tower et founde
dye son quiure.

Mes ceo est tout irrasona-
ble et absurde.

Ergo il ne apperteigneroit
al subiects, mes al roy.

A Logical Analysis of the

En cause des charters del inheritance esteantes en vn cyste ou boxe enseale, si le possessor ent moult, les charters afferont al heyr, et le boxe, si fuit ouert, al executor: Mes entant que est enseale, et issint les charters, et le boxe sont fait vne chose entier, et les charters snt plus precieus que le boxe le heyr que ad ppropriete al charters, auera le boxe auxi, et nyent les executors, sur le reason auantdit.

Issint si vne chariot que est trape oue snt chivals eschue sur vn, et luy tue: les chivalles seront forpait al roy come Deodand cybien come le charpot que tue l'home, pur ceo que ils fueront attache al chariot, et issint fueront come vn chose ensemble, que occasionent son mozt.

(4.)

Issint si obligation est fait a deux, ou deux sont possesse d'un cheuall, et l'un est attain, le roy auera le obligatiō, et tout le duntte, ou le cheuall, pour ceo que il est chose entier.

Donques per semblable reason et ley, pur ceo que le oze ou argent et le quiure sont ensemble, et en le soit indiuisible, et leur commixture fait eux entier, le roy auera tout ensemble. Quia magis dignum &c.

1. Records
dont le

Primer est

an. 7. E. 3.	2.	17. R. 3.
7. H. 4.	3.	17. H. 6.
30. H. 6.	4.	31. H. 6.
33. H. 6.	5.	34. H. 6.
2. E. 4.	6.	3. E. 4.
3. E. 4.	7.	
	8.	
	9.	
	10.	

Tous mynes
et oïres portés
or et argent et
base mettayle en
semble que sont
en soyle dauters
perteignont al
roïne: et ceo est
proue per speci-
als.

3. A genere
epelment,

Mes le informa-
tion conteine
que cest myne
côteigne en luy
or et argent a-
uec le quiture: et
n'est dedit per
respon, mes
pleinement con-
fesse.

Ergo cest mine ē
le terre le counte
perteigne al
roïne:

2. accoumpts
rende al roy
dont,

Le primer suit fait per Wil-
liam Wymoundham del pro-
ties del mynes en les coun-
ties de Deuon. et Corn. del 12.
tour de August. An. 22. E. 1.
tesques le 23. de September,
25. eiuldem regis.

Le second per William de
Aulton clerke pur les pro-
ties del mynes en les coun-
ties de Deuon. et Corn. del
quart del March, 26. E. 1. tes-
ques le 18. de April, 27. eiul-
dem regis.

Le tierce, per Mathew Craw-
thorne, de les mynes en Des-
uon. et Corn 15. E. 3.

Le quart per Iohn Maneron
que succede Cawthorne, fait
del 19. E. 3. tesques al 23.
Eiuldem regis.

Le cinque per un Robert
Glouer.

An.

Re:

A Logical Analysis of the

Tous mynes en quez est aucun argent ou
ore, apperteigne al roy,

Le quart est deduct hors de les
dits recordes et est a genere,
Ilint,

Mes les mynes de quyre conteignent
argent, Car nul myne d'essaye est boyde
d'argent;

Ergo tous les mynes de quyre appers
teigne al roy.

Et ceo est confirme per charter le roy Edw. le primer graunt al
subiects del counte de Cornewale, confirme per le charter le roy
R. 2. que fuit mitigate per lesta : de 50. E. 3. per queux apiert
que leur autorite en Cornewale et Deuon. de fower et de auer
essaye fuit deriue del roy : et certaine quantite del essaye est
payable al cozone pur tpe liberte lesque a ceo tour : come en
aucun lieus en le counte de Darby le roy ad certaine quantite
del plumb sur consideration que argent est en ceo, et que il
absteynera de bser le extremitie de son prerogative. Mes en
Darbyshire et ailours ou sterile mynes de plumb ont este apiert
tout temps, et le roy nauoyt aucun pzoite, les subiects la poient
prescriber pur ceo vers le roy, et le fower et pzel del plumb
sans payment, est prescription pur le pays, et come Heskett a-
uandit tient, le prescription en tel case est bone. Car il y a-
uoit diuersite del mynes de plumb, car aucunes fueront fer-
tile, cestassauoir, conteignants en eux ore ou argent : et aucuns
sterile, cestassauoir, sans ore, ou argent.

Isques

Primerment ils, supposant le autozittie de Recozds estre tresgrande, donont a euz un resonable exposi-
tion. Car il ny ad aucune myne de eslayne, de quivre,
ou de plumbe, ne de ferre, mes que aucun oze ou ar-
gent poct estre treate ou finate hoys de ceo (et issint le
roy aueroit tous mynes de base metalle deins le
realme, que est absurde) donques icy le roy auera
ceux pzerogatiues, ou le oze et argent que est en le
base metalle, excede le value del base metalle, ou al
moins suffist al porter tous les expences destre des-
fray entour le acquisition de ceo, et selon cest expo-
sition ils primerment interpretont les parols del
recozds et le maxime de magis digno, puis print
exception contre l'information. A A.

Jesques icy del part
le rogne: oze est a dire
del respons fait per
part le counte, et ceo
en deux maners. Car

Le autozittie de Recozds, come choses
faits al importunate request de euz
que sueront al roys pur gaigner, et
tollerate per les subiectes, ro que ils
aueront part del gayne, issint ils vi-
tuperant l'effect pur le cause &c.

1. ils de-
nyont tam-
bien.

Conte ceo que est collect del charter le
roys al euz de Cornewale: Car as-
piert per les parols del charter que
leur liberte ne püst oiginal come
mencement, mes tantolement confir-
mation et direction per ceux charters
et coment que le roy ad aucun pproste.
ceo n'est en respect de aucun interest
en le chose, mes pur porter le charge
des officers, s. tryers, controllers &c.
Ncome il ad del merchants, car il ap-
point serchers &c. Queux auont sit-
pends de les merchants &c. tamen
nont aucun proprety in leur mer-
chandise &c.

P n. y.

A. A.

A Logical Analysis of the

Ceux parolls, aliquid auri vel argenti habetur, issint que ceo aliquid soit tant que vaul-
le charge del fower et sercher &c. car auter-
ment cest aliquid, n'est aliquid, mes cest aliquid
nihil est, et meyns que nihil, Car ex nihil
home auera nihil, mes icy de cest aliquid il a-
uera perde, si pur acquirir le oze de value
de 4. d. il serra al charge de 5. d.

Et le maxime, quodd omne magis dignum &c.
Car ceo est intendible ou le chose plus digne
est de ascun value, ou de plus value que le
base chose est. Car de minimis non curat lex,
come en action de wast del 2. d. le plaintife
nauera iudgement: et cest lour interpretati-
on de ceux parolls de estre intelligibles lou
fuit grand abondance de oze en les mynes
est confirme per le reservation del roy H. 4. S.
Nonam libram de argento puro inde provenis-
ente, issint que le roy intende grande quanti-
tie de argent de estre en les mynes, entant
que il n'ad reserve ascun part d'auter metall.

pprimerment
interpretent

A A.
Seld's expo-
sition auant
dit, ils

Information pur le roy est le declaration le
roy, quel doit contenir certeinie, issint que le
partie auera perfect science a quel chose re-
spondra, et le court de quel chose il abindgera.

puis repre-
hendent l'in-
formation per
argument a
descriptione.
Car,

Mes icy per l'information et le respons est
disclose et confesse que le counte ad prise six-
centmille pois de oize de quire conteignant
en soy oze ou argent troue et soive en son
terre demesne, s. cinquecentmille pois en
myne apert puis que le counte fuit seignour
del soile, et centmille pois en myne en son
soile apert deuant que il fuit seignour del
soile: et ne apert il le oze et argent en quel
oize fuit de greinder value que le quire, ou
al meyns d'ascun value ouster le charge de
acquisition, et ouster le base metall, pur sac-
le legalite del sayt del counte.

Et qd n'est bon Information.

Jacques

Le roy et rogne p. et
m. ont en l'une case
graunt al counte le
terre en que le ower
fuit, et en l'auter case
le myne per le nome
de tous et singular
mynes. Car le vaine
dont les 500000.
pois &c. ne fuit myne
al temps del date al
counte, eo que fuit
close, pur ceo passera
per graunt del soile,
come part de soile.
Mes en le second plee
le vaine passera per
nome de mynes, car le
vaine fuit patent &c.

Cest antecedent
del entymeme est
pleinement illustre
per un amplifica-
tion del objections
que poent estre fait
del auter parte en-
counter le counte: et
cest p'occupation
est vertue del di-
uers adiuncis inci-
dents al patents le
roy et rogne QQQ

Jeisques icy del general point
oye est a dire del speciall, que est
proue del part le counte per un
entymeme conteynant leffect et
graunt le roy et rogne; a partis
bus ad totum.

Ergo tout ceo que est conteigne en l'info-
rmation pertaigne al counte.

¶ n. iiij.

QQQ

A Logical Analysis of the

De gratia sua speciali, pretend grand
fauour le roy, et son bountifualnes
vers le patentee.

primement recites
briefement, et op-
poses enconter les
obications del au-
ter part car les pa-
rols,

Ex certa scientia pretend pleine in-
telligence de roy et royaume en le
matter, et exclude tout ignorance.

Ex mero motu, testifie, que il na-
uoit aucun suyt ne suggestion de
patentee, mes que le primer mo-
tion, et tout le sequel al perfection
del patent procede del royaume,
et pur ceo, le effect del patent serra
le plus amplement extende al be-
nefice le patentee.

Les adiuncts inci-
dents al fait et pa-
tents sont,

Tam bien per un distinct propo-
sition de les obicacions et seueral
appling de respons. BB.

secondement plus
amplis,

Come de nouel confirmation de
ceo per induction de specialis.

SS.

B. B.

Objection
est tuel,
car,

Aucun de part le roy et rogne poest dire,
que quant ils granteront le terre, que ils
ne conuſteront que tuel bayne de owpe fuit
en ceo, ou quant ils graunteont omnes &
ſingulas mineras, que ils ne conuſteront
que oze ou argent fuit en les mynes.

1. Pro-
poſe tiel-
ment.

Dir, ils meſme ont teſmoigne
le contray, ſouth le grand
ſeale dengleterre, que eſt teſ-
moigne de verite, et nient im-
pugnabile en ezedit. Car, ont
dit, ex certa ſcientia, que eſt tant
a dire, que ils ont conuſſance
de cheſcune choſe materfall.

reſpons
eſt,

In 43. E. 3. Thorp dit, ſi vn
manoz a que vn auowſon eſt
appendant ſoit en le mayne le
roy per eſcheate, ou purchaſe,
ſi le roy a ceo iour done le mas
noz a vn home auxi entier-
ment come vn tiel tenoyt des-
uant que il vient en noſtre
mains per voy deſcheate, ou
que vn tiel tenoit que nous
enſeoffa, le auowſon paſſera,
ſans dire, cum ſcedis & aduo-
cationibus : et le cauſe eſt pur
ceoque le ley enuied en tiel caſe,
que le roy eſt appriſe de ſa
droit, quod curia conceſſit la, et
ſi ſerra dit iſſint en ceo caſe,
lou n'eſt priſe nuz per impli-
cation que le roy eſt appriſe de
ſon droit : a ſortiore ſerra priſe
iſſint, l'ou le roy iſſint dit per
expreſſe parolles.

2. Con-
firme per
vn argu-
ment, a
maiori.

Second,
O.

Tierce,
R.

B.B.
Dōquers
le,

O. Le

A Logickall Analysis of the

O.
Le second

objection, { Si aucune boet dire que les parolls serront
estraitement prise vers le patentee, et beneficia-
ment vers le roy et le rogne.

respons, { Dir, ceo patent fuit fait per le roy et rogne de
gratia sua speciali : per queux parolls ils signifi-
ont leur fauour et grace al patentee, et per ceo
donont intelligence que les parolles serront fa-
uozablement interprete et largement extende a
son benefite et commodite, et estraitement vers
le rogne.

R.
Le tierce,

objection, { Si home boet dire que le patentee ad done in-
formacion al roy et rogne, et ad fait fuit de auey
grant, et pur ceo chescun parol serra prise estrai-
tement vers luy.

respons: { Sir, le roy et le rogne ont tesmoigne le contray,
car ils ont dit, que le graunt est fait ex mero
motu suo, per quel ils voilent, que ceo fait de
loure mere motion pprendra effect amplement.

S.S.
Le nouel confirmation
est per induction de sz
special cases, ou ceux
parolls, ex gratia speciali,
certa scientia, et mero mo-
tu, sont semblablement
expoundes.

1. Per Husley. 9.H. 7. 2. que ppris difference
inter patent ex certa scientia, et per informamur.
2. 1. H. 7. 13. en charter de pardon.
3. 3. H. 7. 6. en case de ppris de Norwich.
4. 22. E. 4. 44. en case abbe de Waltham.
5. 36. et 37. H. 6. 24. en le case de Qua-
termaynes.
6. 41. E. 3. lib. Alsif. 19. Licence de doner en
mortmaine. A cest dernière case est adioigne un
autre reason, que si le counte nauera les mynes,
donques riens passera per ceux parolles, omnes
& singulas mineras &c. et en le generall conclusion
est dit que le patent fuit fait deuant lestatute
de 4. et 5. de le raygne de les ditz roy et rogne,
sapt touchant leur letters patentes, & sic, est
mult ayd per cest statute, que patents serront
beneficialment expound pur le patentee, nient
obstant le defect del verp nommer de les natures,
genres et soys de les hereditaments conteneys
in tichs letters patents.

Ceo que vient al roy en respect que il est possessor del corone, ne passera per graunt de terre Vide,

L. L. L.

Mes le owze de oze et argent appertaigne al roy come il est possessor del corone, et nemy del terre: et en ceo respect il ad le owze en son soile, et en soile d'auter.

Ergo ne passera sc. Car si alien le soile, il n'ad per ceo alien ceo point de prerogative sa corone en sa soile.

1. Ilint arguont.

Le premier est, si per le graunt de soile en q: le owze suit, fait ex gratia speciali, certa sciencia & mero motu, le owze de quere conteignant oze, ou argēt (le dān de quel ne suit apert, mes secret) passera al patentee, ou nemy, et semble a eux, que nemy, Car.

Le coun-
sel le roy
enconsiter
ceo, et cō-
sider deux
points

2. Ilint, et est respons al die argumēt sur ceux parolles ex gratia speciali &c.

Le second est, si per le graunt fait de tous mynes, ou les parolles subdits, si ceo myne de quere conteignant oze ou argent passera al patentee ou nemy, et semble a eux que nemy.

P. F. P.

Car le patent que est fait, sera prise fauorablement al patentee: mes ceo est quant al chose expresse en le patent, que les parolles monstre de estre entende de passer, mes ceo ne voet faire aus ter chose de passer que n'est expresse per parolles de patent estre entende. Car si le roy graunt et entende un chose, tels parolles ne poient faire deux choses de passer, come est en le case de Wyke, de Wenlocke: No-
ua natura bre: Fol. 232.

00.

L. L. L.

A Logical Analysis of the

Particuler choses
del prerogative que
ne passent per done
le soile, come

Waput,

Esrap,

Waput,

Et tels semblables choses
que sont collaterall a le
terre.

L. L. L.

Cest maior, seu propositio
est proue per enumerati-
on de,

Primer est de manoz deins
un forest le roy escheate al
roy et done per le roy al aue-
ter ec.

Speciall cases
ceo confirmant
dont le

Second est le leuery graue
al hepe de tenant le roy en-
capite, en quel le clause de
salua al feme sa Dowry per
le roy assignanda, n'est con-
teigne.

Tierce est en 37. E. 3. de vis-
advison, descend a trois
coperceners et Fitz : Quare
impedit 1.

P.P.P.

Termes en patentes de roys que com-
prehendent choses annexes al cozone ou
prerogative royall, ou de grand impo-
tance et chose de plus bas degré, ser-
ront prise et construe de faire les choses
base seulement de passer al patentes, et
ce est confirme par special cases. R.R.R.

mynes royall que consist
de or ou argent ou de
base metalles conve-
nant en soy or ou argent.

mes en ceo
patent est is-
sint. Car
sont deux ma-
nieres de mynes

Base mynes que consist
seulement de base metalle
et substance s. quire, e-
stagne, plumbe ferre ou
carbones, et neant en
eux or ou argent.

1. Mint.

P.P.P.

Quant al second point,
et le grant spectile en
le second plet, s. de om-
nibus & singulis mine-
ris, il est tialmet argue
encounter le counte,

Ergo en ceo patent les termes seront
construe de faire le base mynes passer, et
nemy le royall.

2. 4. 4. 4.

3. 4. 4. 4.

Oo. ij.

R.R.R.

A Logickall Analysis of the

1. En. 2.2. E.3. lib. ass. 45. En grant al mayster de S. Leonard de bonis felonum, vbi excipitur treitoz.

2. En retourne de tous maner de bziefes graunt albn, ou soz mons sont except, car touche le roy.

3. En graunt de fynes, issues &c. de 2s tenants; il nauer fynes del home que est tenant de luy et del auter.

4. En 3 E.3. Fitz assise 445. de pount eschue et destre repaire ou generall charter le roy ne excuse le abbe que fuit charge per speciall cause.

5. En 9. H. 6. 56. En graunt le roy de terres en fee oue garrantie, le patentee ne recouera en valur sans expresse parols. Car garrantie ad deux effects, l'une a rebutter, et ceo il fra la: l'auter a recouer en valur, et ceo ne fra en le case le roy sans ppcise parols.

6. En 2. H. 7. 6. En le case del counte de Northumberland, lou le graunt le roy des amerciamentes en tpeel countie, ne tra'ye les amerciamentes del vicount, cozoner, ou auter grand officer pur son misdemeanour, car ceuz sont royall amerciamentes.

7. En 43. E. 3. 15. lib. ass. En graunt le roy del duchy de Cornewale a son eigne lites, ou per generall graunt, vn speciall gard ne passa.

R.R.R.
Speciall
cases.

8. 5. E. 2. Fitz Quare impedit. 165. ou le roy pur aduowson en le countie Palantine de Durrham suist Quare impedit en le comon bancb, lou pleder al iurisdiction del court graunt per le roy, ne excuse le pleader.

9. 3. E. 3. Fitz. Graunt: 102. Ou le roy auoyt grant a vn abbe que il puit amozifier terres al valur de 100. s. et vncoze ne puit purchase auowson tenus del roy en chiefe. Cest case differ del case en 4. lib. ass. cite del auter part: car la, le charter le roy nosme le mease &c. issint que ne poet estre entende, que il fuit ignorant del tenure, mes icy in 34. E. 3. Le patent est generall que il amozifiera terre de valur le 100. s. &c. Come dit Wray apprentice: mes auters ceo denpent, car le aduowson fuit hic nosme auxi.

10. 19 Fitz: Graunt: 58. Lou licence le roy de approppe l'aduowson ne puit faire aduowson tenus del roy destre approppe.

11. 1. H. 7. 23. et 26. En case del sanctuary, ou le charter le roy generall ne fuit sufficient de faire sanctuary pur treason.

12. 18. H: 8: Brooke Estates: 84: et Patents, 104. En le case de Bowrehall en Essex, l'ou fuit tenus, que nul estate de inheritance passera, nyent obstant les parols de gratia speciali, &c. per queux le roy auoyt grant ceo a vn home et ses herzes males. Donques les parols en charters le roy enureront al comen entent, et ne deuelleront del roy, choses de haut degree, ne choses annex al cozone in point de prerogative,

Car quant a ceo que Shirborne dit, que si le counte nauera les mynes royal, il auera ryens per le parolle. Mes, car le base mynes passeront per le graunt del terre. Str, que adonques i ils sont parols de surplisage pur mines en mesme le terre, come sont les parols de graunter garbs, maryages, et escheates, que sont plusors foits mise en patentes: ou autrement poient prendre effect pur mynes que Henry le counte auoit en terres dauters.

444.

Secoundment ils respōd
a ceo q; est dit del autre
part.

Et quant a lestatute de
4. et 5. P. et M. Barrham
dit, que voyer est q; l'act
fait les letters patentes
bon nyent obstant le de-
fect, del very nommer de
le nature, genres, et
sores de les heredita-
mentes: mes ceo serra
solōq; le tenoz de mesme
les letters patentes. Et
voyer est que l'act dit
que les letters patentes
serront expounde plus
beneficialment pur les
patentees, mes solon-
ques les parols et pur-
pozt de les letters pa-
tentes, et sur ceo ils issint
conclude.

Si en le parol, terre, en
lun case le owze royal
nest graunt: ne en le pa-
rol, mynes, en l'auter
case: donques, le act nex-
tende mes al base owze:
et pur ceo serra benefi-
cialment expounde en
auantage del patente:
car ceo est, solonque le
tenoz et purpozt del pa-
tentes.

Mes en le parol, terre,
en lune case &c.

Ergo le act nextend mes
al nature del base owze
&c. car dextender al owze
royal, serra contrary ad
pur pozt del patent.

ALogicall Analysis of the

Ceo que est incident al cozone inseparablement, ne poet estre graunt ou seuer del cozone, per expresse paroll.

Issint

Mes ceo myne, est cant myne royal, est incident al cozone inseparablement, come escheate pur treason:

Ergo per expresse parolles ceo myne ne puit estre graunt ou seuer del cozone, multo minus sans expresse parolls.

7.7.7.

3. Deux seueral opim^{os} de ceur de ceo part sont recite, car ascuns arguont

Si le ley soit tict que le roy poet graunter point de sa prerogative a auter, a fortiore il le poet en nostre case, ou le chose n'est que revenue ou profite del cozone, que poet estre icy bien lease ou demise a auter, sans rent, come pur rent.

Ascuns encounter ceo, a maiori,

mes le ley est tict: que est proue per deux special cases

Le premier est en 20. E. 3. Fitz. Corone. 12. 5. Iou le roy auoxt graunt as cytisens de Loundres que nul gagera bataille vers eux en appeale et vncoze ceo est un chose annexe plusz procheine al prerogative le roy, et al person le roy.

Le second est issint: si home puit les biens le roy roccio: ucinement le roy poet prendre ou seiser ses biens tanque il ad fait restitution, come le comen use del eschequer est, vncoze le roy graunt ceo al ville de Lynne. 8. R. 2. Fitz. Graunt placito ultimo.

Ergo multo magis il poet en nostre case &c.

Hactenus

Que tous mines d'oze et argēt, en queuncq; soyle, pertaigne al roy per prerogative, oue liberte de fower, caryer &c.

Pur le p^{rim}er ils agre-
ont.
Que mines de quyre, estayne, plūbe, ou ferre sans oze ou argēt, pertaigne al p^{ro}prietoz del soyle, car en base mettayle, null prerogative. Et per Baron Fieul, q: si y ad quaire in une deyne sans oze, et in fower outre il apiert oze, et petite d'auter mettayle, ceo serra dit myne de quyre de oze, et nyent de quyre solament.

Pur le second, sūt agree per Harper, Southcot, et Weston, que si le value de oze ou argēt ne excede le value del base mettayle, tout affect al p^{ro}prietoz del terre: mes si excede, tout est al roy, et serra dit Myne Royall.

Fuit agree per tous, que tous mines Royall, soient de pure oze ou argent, ou soient de base mettayle contenant oze ou argent, poyent per apt parolls estre graunt, car ne sont inseparablement incident al cozone.

Fuit agree per tous, foizque les troys auantdits, et per eux auxi, si ceux mines in question sūt royall mines, que les owyes in le p^{rim}er ple specille per grant del soyle, ne le myne in le second per graunt del mines, ne passes ront al counte per le patent, mes besoigne d'aueir speciall parolls, car soile et myne ne sūt serront p^{ri}se al comun intent pur base mines &c.

Lat del 4 et 5. P. et M. ne apd: car l'intē del charter est del mines base, et nextend al mines royal, mes per Dyer si null myne soit foizque royall, bonq: passerot, car aliter les parolls serroint boyd, mes icy sont autres mines, s. base perq: &c et per mesme le Dyer con:ēq: le myne in le p^{rim}er ple ne fuit apiert al temps del date del patē, vncoe serra dit myne, car de Mineris aliquæ sūt occultæ, & aliquæ apertæ, Carlyn dit, que, les parolls ad humilem petitionem eiusdem comitis, diminuont le force des parolls, ex gratia speciali &c.

L'information fuit challēg per Mead, quia ne fuit mōstre en quel vil ou Hamel Hewlands gist: mes fuit respōd, q: ne besoigne, quia n'est en effect foizq: pur trespass, et nul serra recouer foizq: dānages: contra in action real, car l'a sur recouery, le vicount ne puit luy metter en seisin sans notice del ville &c.

Le p^{le}ading del part le counte fuit vicious: car doit auer mō-
stre q: le mine conteigne foizq: petite oze, ne tant come serra les charges: mes ceo il ne ad fait, i: aq: per le general confession q: il ad oze, serra p^{ri}se plus beneficialmēt pur le roigne enecūer le pleadant, q: il ad affect del oze. Imō tous foizq: les troys auantdits agree que tout serra al roigne, comentq: le base mettayle soit de greinder ualue, eoq: est confesse que aucune oze et argent fuit en ceo.

Le matter en ley,
in les points.

General, et

Speciall,

Hactenus
des argu-
ments in
vtramque
partem:
oze del o-
pinio des
Iustices
que est cō-
cernant,

Le p^{le}ading et
information.

A Logickall Analysis of

Felony, que est offence
del cozone, immediare
vers vn comon person,
et cōcerna les

Bicus, A. A.

Le person, B. B.

Dites del cozone sont q: cōteigne offences faites encontre
le cozone et dignite le roy atque hic Stanford agit,

1. del nature des dits of-
fices, vbi fait ascavoir q:
les accessories deuant, s.
les procurers, ou apres
s. les receiueurs ou fau-
reris, pari paria plecentur.
Stanf. 40:41:42, 43:
Home poet estre accessory
al accessory, si felonice
receaua vn accessory, 43.
b. et la, 44:
Licet vn statute que fait
ascune chose felony, ne
parle des procurers et
receiueurs, vncore seront
deins l'statute. Offices
encounter le cozone sont.

Treason,
que est of-
fence del
Cozone
immediare
encounter
l'estate le
roy & roy-
alme, estq:

2 Des penalties de
mesmes offences. Q. Q.

Grand

Come compasser ou imaginer le
moy le roy, sa voigne, lour eigne
sirs, violare le roigne, ou leigne
sire le roy nent mary, ou le feme
l'eigne sirs le roy: Leuer guerre,
adherer as enemis le roy: coun-
terfeiter le grād ou pziur seale, ou
sa money: poztter faux money in le
realme cōsterfait au money deng-
leterre, tuer Chancelloz, Treas-
uroz, Justice dascun banck, en-
eys, ou assises, doper et terminer,
seants in lour place, et ce per l'est.
de 25. E. 3. cap: 2: de prodicionibus:
Item counterfeiter de pziur seig-
net 1. M. cap: 6: vide l'est: de Elifca: 11
et 18. Elif. ca. 1. de clippers, was-
hers, filers, roñders, et lour abet-
tours, quelconque soit le copne,
dummodo soit current ley.

Petite

Vide mesme l'est: de 23. E. 3: ca: 27:
que n'est que explication del com-
ley. Come, Quant vn seruant tua
son maister, feme sa Baron, home
seculer son prelate: feme sa mystres
per 12. Ass. p. 30. 10. H. 6. 47. co-
mēque soit hoys de seruite dūmodo
sit de malice conceaua in scrutce.
Fitz: 270. Ino les abbettoys hic pu-
niantur eodē modo. Fitz: 276. Itē
mitter excommengement south bul
le pape, 30: Ass. 19. Item dr' age
debysa le prison et amēne pzi-
oners, 11: 6: 15:
Vide Stamford, pag: 10. a. b.

Hue refer mispyrison, s. le concealing de felony ou treason come, Justice de peene
enrolla vn bille dēdientement nent troue per le pais: Estranger viter faux money,
3. H. 7. 10. Home trahē son espee de Ferir Justice seant en son place 22: E. 3: 13:
Ferir ou bater vn Juroz, in pzeſence des Justices Fitz: Iudg. 174. vn ferist auter
in le sale de West. Fitz. Cor. 280. Vide l'est 33. H. 8. ca. 12. Pur drawing blood
in le meason le roy. Item per Britton, Ribaud ferist vn honorable home, Justice
arresta vn que fait frap tēuant luy, et vn auter luy rescusa. 22. E. 3. 23.

A. A.

A. A. felonie in biens est

Destruict et ceo per

In bonis abluetis

Del per-
son das-
cun home
hinc sur-
dout,

Robbery
scilicet,

Pyacy Vide lest. 28.
H. 6. ca. 13. Rastall,
Tryall, 3.

Vel aliter, & est Larceny
si supra xii. d. aliter
n'est felonie, mes petit
Larceny per Stanford, q.
atq; hic,

Arsons des measons
felonice, ou des Barnes
adjoignant al measons.
Bourgloirs, que fe-
lonice in temps de
peace debzusont mea-
sons, eglises, mures,
towres, poirs notan-
tes, licet riens impoit.
Huc refer Pyawlatz
ches, Wastours, Re-
beards men, que ser-
ront arrestes pur su-
spicion, per lest. 5. E. 3.

14.

S'il prist de mon person licet
soit south xii. d. Del lieu, ou
leo suis prist. S'il manace de
moy occider, ou fist moy turer:
Item s'il gist en agayst, olim,
contra hodie.
Hic de scitours de burles: de
queux Britton, 24. b.

Hic de Que et
Crpe: Vide lest.
de West. cap. 9.
an. 3. E. 1. Lest, de
Winchest, 13. E. 1:
Lest, de. 28. E. 3.
ca. 11. Et 27.
Elif. ca. 17.

1. Agit in
genere de
Larceny,
vbi,

Primum explicat naturam rei, & definit
Larceny, et mette diuers cases et
exemples: Larceny est fraudulenta rei
alienae pluris quam 12. d. valentis tra-
ratio, animo furandi: inuito illo cuius
res illa fuerit. Vide pag. 24. 25.

Deinde latius illustrat
furtum per les adiuncts Vide,
C. C.

Recoydes emblees, 8. H. 6. ca. 12.
Pisiel del seme inute, 3. H. 7. cap. 2.
Hunting in painted visors pur thea-
ler Wenison, et denier ceo 1. H. 7. ca. 7
Seruant prist les biens son maister,
except prentises, et ceux que sont
deins le age de 18. ans, 1. H. 8. cap.
7. Selling hoyses into Scotland, que
est vn stealing d'eux hoys D'england:
23. H. 8. cap. 16. & 1. Elif. cap. 8.
Shoulder scale away sans licence,
2. E. 6. 2. Multiplicaton, 5. H. 4. ca.
4. Pisel de castels le roy, towres
hips, armos, ou practise de prendre:
14. Elif. cap. 1. Seruant stole les
biens son maister apres la mort, et
ne boet aperer apres proclamations,
per lest. de 33. H. 6. ca. 1. Esquipet
lane fozsq; a Calice, 18. h. 6. 15

Ap.

C. C.

A Logicall Analysis of

C. C. Illustrat Larceny per ses abundis. f.

De queux choses
Larceny ne serra,
Come de

Poet estre de ses
proper biens, come
beyloz, stela biens,
baylees, & tamen le
pproertie fuit en
luy semper, 7. H. 6:
45. 13. E. 4. 10.

Larceny le possellio
estant in le owner.
q. pag 26.

Quis non potest cō-
mitter Larceny, f.
quis ne serra dit lar-
son comenque il
pysit ar.

Beastes sauages, columbes hozs del douecoate,
porsong in le ryuer, car nullis in bonis. Cor. 185.
18. H. 8. 2. contre del debzuser del douecoate, et pren-
der les pong pigeons, 18: E. 4: 8. 10. E. 4. 15. em-
bleer domesticall bame, feloncy, q. si ne conuist destre
domestical, mes si pysit mozt, cest feloncy.

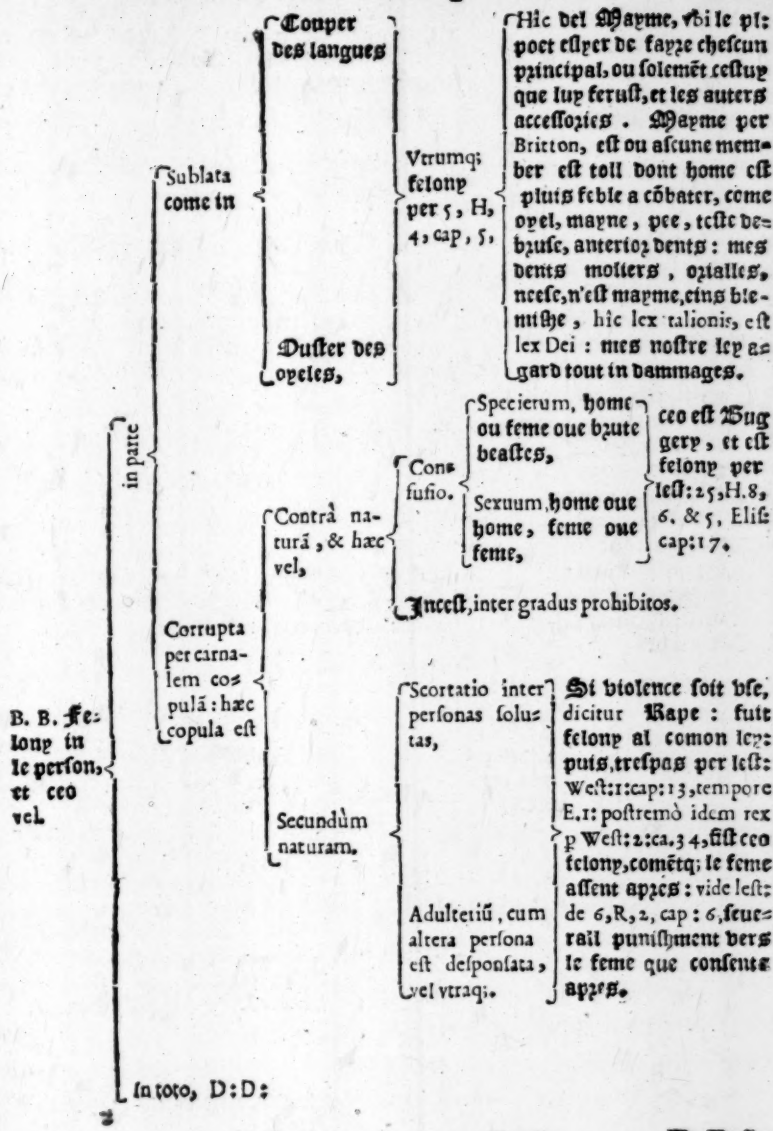
Item serra de personel choses, et meiny de reall:
itaq: si home succida arbye et pysit, nest feloncy, contra
si suit succide deuant, Cor. 119. For oue charters
null feloncy, 10 E. 4. 15. treasure troue, wycke,
del mere, warf, stray pyse, null feloncy: Cor. 187.
265. car incertum, quis dominus: contra de bonis capel-
la, Endit, 15.

Feme per coertion ou commandement son Baron,
q. vt nec torment oue son baron: car serra l'act le
baron: mes feme poet, inscio viro. Item feme ne
serra accessoyr pur receiuer son Baron.

Infant de tender age, come deins 12. ans per Bra-
cton: mes contra hodie.

Huc pertinet le tractate de Thefeboote, quant home reprist ses biens embleez:
mes pproperment est, quant home ppsit ses biens dun laron pur luy fauoyer: nest
feloncy mes punishable per ranson & imprisonment. Ill. 3 46: tamen, Cor. 353. fuit
feloncy. Biens confisques, que sont donez al roy, quia ne sont claymes per as-
cun auter, mes disauowed del laron. Vide Stanf. 186. diuersity inter biens confis-
ques, et biens forfers. Wayf, quant le laron sur hue a crye a pursuite, pur easer
luy mesme del portage, wayua les biens ou part d'eux perque les officers le roy,
ou auter in droit le roy seissit les biens, la le roy euy retiendya come waife, si non
que le owner fait fresh suite, car donq: il reauera ses biens, insint, si le laron ne
wayua, mes home in droit le roy ppsit euy de luy pur suspicion, le owner reauera
sur fresh suite. Null wayfe des biens pyises per trespas: null wayfe de bies d'un
qui ad sauseconduite in bonis & corpore, 13. E. 4. 10. Freshsuite, quant le party
pursue le laron cy hastymet que il luy appzchend oue le manoz, et sur ceo pozt son
appeale et luy conuince per verdit, mes hodie suffist si fait son deuor, cometque
ne soit pyse deins vn an apzres, ou soit pyse al suite d'un auter, et suffist conuic-
tion sans attepnder. Mes per lest. 21. H. 8. ca. 11 il auera ses biens sur lenditement
del felon, imo si pzocure euidence destre done, sans ascun fresh suite, et semble, que
le seruant soit robbe, le mayster poet doner euidence et reauer ec.

B. B. Feloncy



A Logicall Analysis of

Per leſt. de 3. H. 7. ca. 13. ſi aſſum del hoſtell le roy conſpire le mozt le roy, ſeignieur de pꝛup counſayle, Steward, Treasorer, Controllier del hoſtell, ceſt ſelony.

1. de cer-
ten ſta-
tures
come,

Willfull poꝛſoning eſt ſayt ſelony, ſ. eſt ſayt willfull murder, per leſt: de 2. E. 6. ca. 2.

Si Caploꝝ per dures ſayt home approuer, ceſt ſe-
lony per leſt, de 1. 4. E. 3. ca. 9.

Vide leſt. de 1. et 2. P. et M. ca. contrā ægyptios: & 5. Eliſ. cap 16. que fait conſuration ſelony.

Britton dit, que ſoyceꝛers et miſſerants ſerront: arſes.

D.D. In toto, ſ. in occiſione, cū quis iniuſte priuatur vita, hic vide Stanſ: del co-
roner et ſon poyer de beyer le coꝛps, a pag: 48. ad. 53. et del bicoant, que ſi decolla vn home ou doit luy pen-
der, ceſt ſelony: Hic agit.

1. Breuiter deſcribit ex Bracton, Homicidium eſt ho-
minis occiſio ab homine facta: ſed iſta deſcriptio nimis eſt ſpecialis, & excludit Deodanda,

2. del co-
men ley
Cybi,

2. Explicat
larius per
ſpecies, ſ.

Homicidium,
manſlaughter,
ſance malice pꝛe-
pence: hic ſi aſ-
ſum choſe q: n'eſt
home, tu a home,
le choſe meſme, &
tout q: eſt moue
oue ceo, ſerra
ſoyſet come vn
Deodand.

hic volūtas olim fuit
ſelony ſang ad, con-
trā hodie.
Olim le ſtryking
d'un feme pꝛegnant,
fuit ſelony, ſi cau-
ſoit abortum, mes
hodie doit eſtre in
rerum natura, et de-
uy deins l'an & iour
qu'is le coupe.

murder, avec malice pꝛepence: hic vo
ſelo de ſe.

Que sera iudg in le supte,
f. Iustices del banck, d'as-
sise : et steward del hostel
del chose deins le hostell.

In le com-
mencement
del supte,
vbi docetur

Apprale: G. G.

Que sera
le meane
de suer, f.
per,

Le nature
del supte et
ceo cum

Inditemēt. FF

QQ: Dictum est del of-
fences: dicendum de pr-
malities, et de maner vse
in punysshing, vbi confide-
ratur.

In le pro-
secuting
del ceo, arg:
hic:

Del order in pleading.

N. N.

Maner del tryall. T. T.

Finall iudgement et determination del supte. X. X.
P. p. iij. G. G.

A Logicall Analysis of

1. Per vn briefe de-
finition et Brytton.

Appeale est pleynte del home faye
sur auter, oulsq; purpose de luy
attaynder de felony, pcr mores a
ceo ozdeynes.

1. Le ge-
neral na-
ture de ap-
peales ex-
ponitur.

Certepe
generall
adiuncts
del ap-
peales

Come, vers queux Appeale gist,
s. vers tous, que poient fayne fe-
long.

Deins quel temps serra pozt, s.
deins l'an et iour, in appeale de
mozt. q. de robbery et Rape.

Deins quel counte. s. ou le felony
fuit faye. Vide test. de 2. et 3. E. 6.
ca. 24.

Deuât queux s. Cozoner. bicount,
Justice de bench, et gaole deliue-
ry, Justice de peace.

Du vn auera diuers appeles pur
vn felony. Olim lieuit auer vn vers
le pzincipall, et auter vers l'acces-
soy. contra iam. Tamen in speciali
casu licet, come si vn in vn counte
procure auter de robber moy en
auter counte. q.

Du vn respondra al diuers ap-
peales, s. home commitit seuerall
robberies as seuerall homes, il
respondra al appelle de chescune
q. in mozt ou rape.

Si l'appellant surcessa son appelle
per nonsuyte, releas, retraxit, ma-
riage appes declaration, ou sil de-
uy, le roy pursuera, et le party ne
irra alarg, mes serra arraigne al
suit le roy sur meisme le declaratiõ.

2. per vn
large ex-
plica-
tion con-
teynant

G.G. Ap-
peale atq;
hic.

2. Les
particu-
ler pro-
perties
del singu-
ler ap-
peales:

Mozt.
S. S.

Robbery
4. 4.

Rape.
8 8.

Le proces en appeale. M.M.

M.M. Le

M.M. Le
proces in
appele ou
inditemēt
vt Capias,
Exigent,
Certiorari
cc. 67: hic
le p̄inct:
pall serra
p̄imes
attaint, et
puis le
accessary,
45. hic

1. Le maner del in-
treating les p̄iso-
ners quant ils sont
in p̄ison, est declare

Vide lestatute de 14. E. 3. ca. 9.
contra le cruelte de gaolers.

Vide lesl. West. 1. ca. 13. que no-
toziours et rebellious felons
seront en p̄ison fort et dure.

hic de Escapes.
V. V. V.

del amesner eux al
barre,

Per Britton, ils seront dischances,
discrets, sans coif, en leur pure coat,
hoirs de ferres, ne poena faciat timi-
dos: ramen p̄ Bracton, propter euasioneis
periculum interdum compedes gestare
possunt. Bract. lib. 2. Britt. fo. 14.

2. Le oꝝ
Der,

Der le comē
ley ils ne
seront
mainpise

Qui fueront p̄ises pur mort
dun home,

Der commandement le roy ou
ses Justices.

ou pur le foꝝest.

de lesser a
mainpise

Der lesl.
West. 11.
cap. 15.
ne sont
mainp.

Delages deuant,
foꝝeiuoꝝs, p̄ouoꝝs,
p̄ises oue le ma-
noꝝ, debzuers del
p̄ison, notozious
larons, appellees
des p̄ouoꝝs viuāt
les p̄ouoꝝs niss
foꝝēt de bone fame,
arōs, fauꝝers del
money, ou del seale
le roy, excommēge
per p̄ier leusque
ou pur apert mal-
uēte, ou pur tres-
son.

Itaq̄ ceux que
sont indite de
Larceny per
inquest d'of-
fice ou pur les
gier suspiciō,
ou pur petite
Larceny, niss
sint culpable
d'auter fait,
sōt mainper-
nables. sic
appellees del
p̄ouoꝝs puis
le mort del
p̄ouoꝝ.

V. V. V.

A Logickall Analysis of

V. V. V.
Escape
per leſt. 1
E. 2. de fra
gentibus
prisonam,
rumper
le pziſon
n'eſt ſeto-
long, ſi nō
q; il fuit
impriz-
ſon pur
felony.
Null eſ-
cape de-
uant ar-
reſt. hic,

i. Explicat
le nature
des eſ-
capes,
tūm

Per quan-
dam defi-
nitionem
del pziſ-
ſon, ſ.

Imprizonnement n'eſt auter que vn reſtraynt
del libertie, itaque ſi home ſoit ſouth arreſt,
come in cippes, ou in le poſſeſſion de aſcune
home, ceſt vn pziſon, et leſcaping del cco, eſt
vn debruſer del pziſon.

Quin et reſcus eſt rumper del pziſon, come ſi
home pziſt le ſelon hoys de ma poſſeſſion.

Volun-
tary.

Quant home arreſt vn, et puis leſſa
luy aler hoys del bōdes del pziſon
ou il deut, voluntariō.

per ſpecies

Negli-
gent.

Quāt vn eſt arreſt, et eſcape encoſi-
ter le volāt le arreſtoz, et n'eſt freſh-
ment purſue et repziz devant que le
purſuoꝝ ad perde le bien del ceſluy,
que eſcape, Vide Stanf. 33.

Double eſ-
cape, come

Home arreſte, eſcape al eglife, et puis auxi
ſus del eglife: ceo eſt vn double eſcape.

Escape ſans
arreſt, come

Home eſt murder in vn ville, per le iour,
ou in cete mured, per le nuict: le murder
eſcape ſans eſtre pziſe, ceſt vn eſcape. Vide
leſt: de Winchester.

Que ſerra charge oue leſcape, ſ. le vicount, garden, ville,
Hundred, &c. 34.

Ponit quæ
dam gene-
ralia ad-
iuncta,

Comment eſcape
ſerra try et a-
tudge, car pzi-
ſoners ſont

per mat ter de
recorde

Quant vn pzeſent in
court eſt committ al pzi-
ſon per le court: la ſi le
garden n'ad luy ſemper
pziſt, il eſt eſcape ſans
auter enquiry niſi ad rea-
ſonable excuſe.

per mat ter en
ſayt

Quant vn eſt arreſt per
le vicount, conſtable, ou
auter, et eſcape, la il ne
reſpondra al eſcape de-
uant que l'eſcape ſoit
pzeſent deuant Juſtices.

Le penaltie

De voluntary, felony. De negligent,
ſyne. Si ſoit pur felony, Un hun-
dred pound, De may arreſt, amerctiamēt.

Particular

Appeale de mozt
S.S.

feme auera appele de mozt son Baron, mes de null auter, le feme doit estre la feme de facto & etiam de iure. Item doit estre sole. Ou le feme poet auer appele, null auter auera ceo. Mes si le mozt n'ad feme, son procheine heyre male per le comon ley auera ceo. vide 60.

Particuler appeales
come sont,

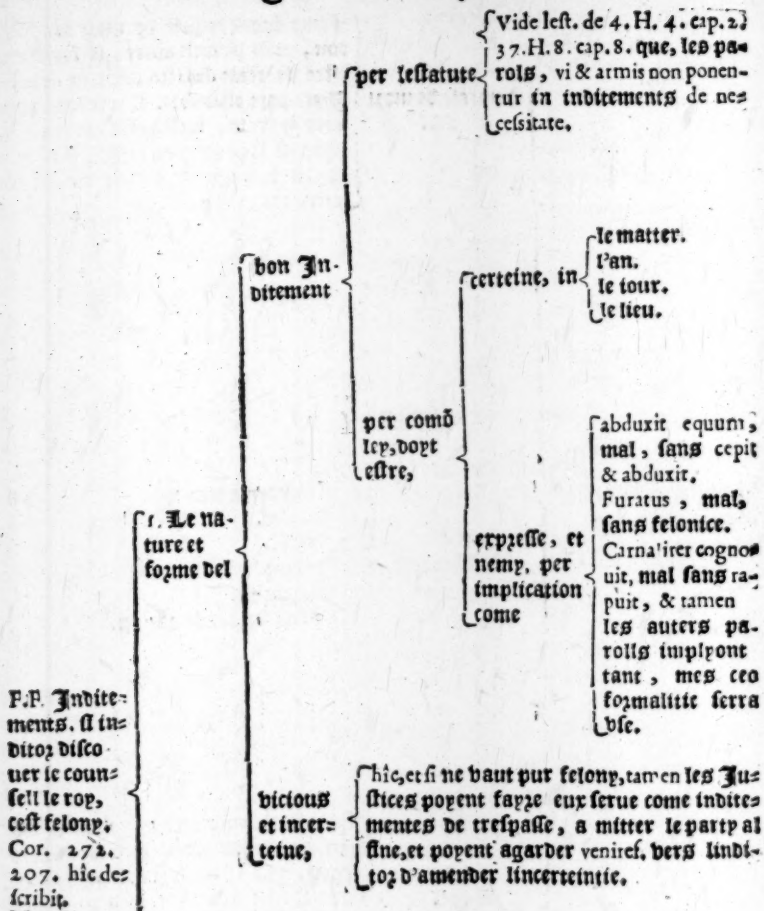
4.4.
De Robbery,

Servant auera ceo.
Baylee.
feme.
Infant.
Executoys.
Merchautes in comon.

8.8.
Rape.

feme sole rany auera appele: feme couert oue son Baron: mes si el assent apres, tunc le Baron sole auera ceo, per lest. de 6. R. 2. ca. 6. mes doit estre Baron de iure & facto. Pur defaut del Baron, le pere ou auter procheine del sang auera le appeale.

A Logical Analysis of



Vide, 16.
16.

16. 16. 2. Cer.

Del Statutes bindementes in Leetes
Weins countre Palatine, 33. H. 6.
cap. 2.

31. E. 3. cap. 14.
West. 2. cap. 13.
1. E. 3. cap. 17.
1. R. 2. cap. 4.
1. E. 4. cap. 3.
Vide lest, Elis.

Deuant Just. de peace.

11. H. 4. cap. vlt.
3. H. 8. cap. 12. contra.
3 H. 7. cap. 1.

In vn countre del chose
fait in auter countre

33. H. 8: cap. 23.
1: & 2: P: & M: 10:
35: H: 8: cap: 2:
33: H: 8: cap: 20:
2. & 3: E: 6: 24:

16. 16.

2. Certaine ad-
funds per Statutes
et autement, come

Le forme del inditement d'accessary, s. Que il expressera le
maner del felony, 81.

Du verdit in auter action
ou retourne del vicount
serue pur Inditement, car.

verdit in auter action seruera,
car il y ad vn verdit de 12.
hommes &c.

contra de retourne de vicount li-
cet soit matter de recozd. Vide
lest: de 25: E: 3: ca: 4: de ceo.

differece inter ap-
pele et inditement.

In appelle de mort, mortui nomen po-
netur: contra del inditement, car le
mort poert estre mangled, et issint ins
cognitus.

Inditee pleya misnomer del sur-
nosme, et poert approuer, contra d'ap-
peller.

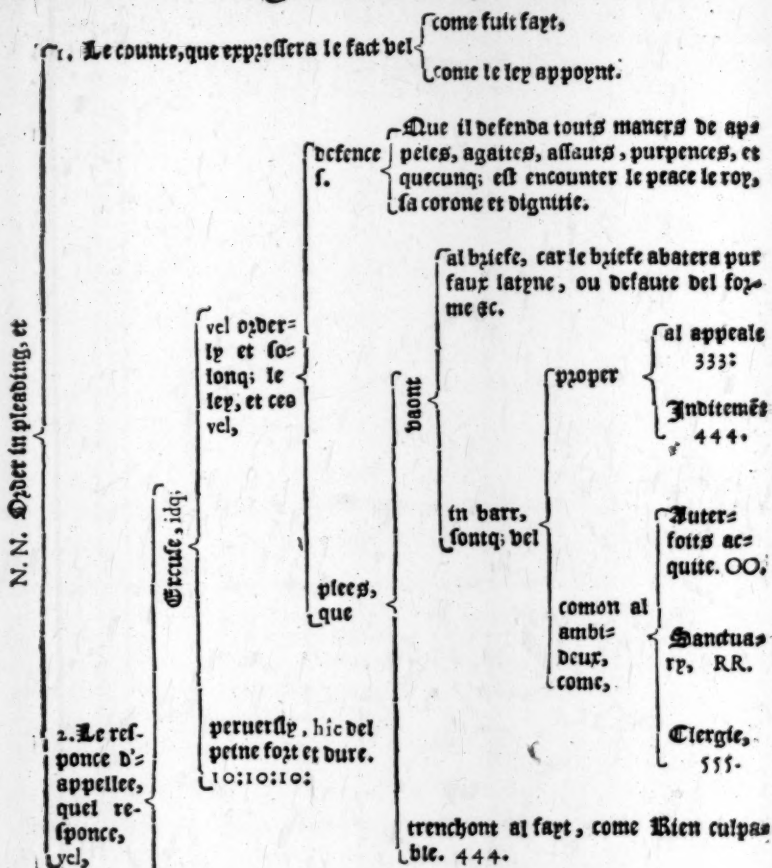
Si appellee pleya clergy, il ne vnque
fra sa purgation, contra d'inditee.

In appelle le def. poert auer triall per
battaille contra in inditement.

¶ q. ij.

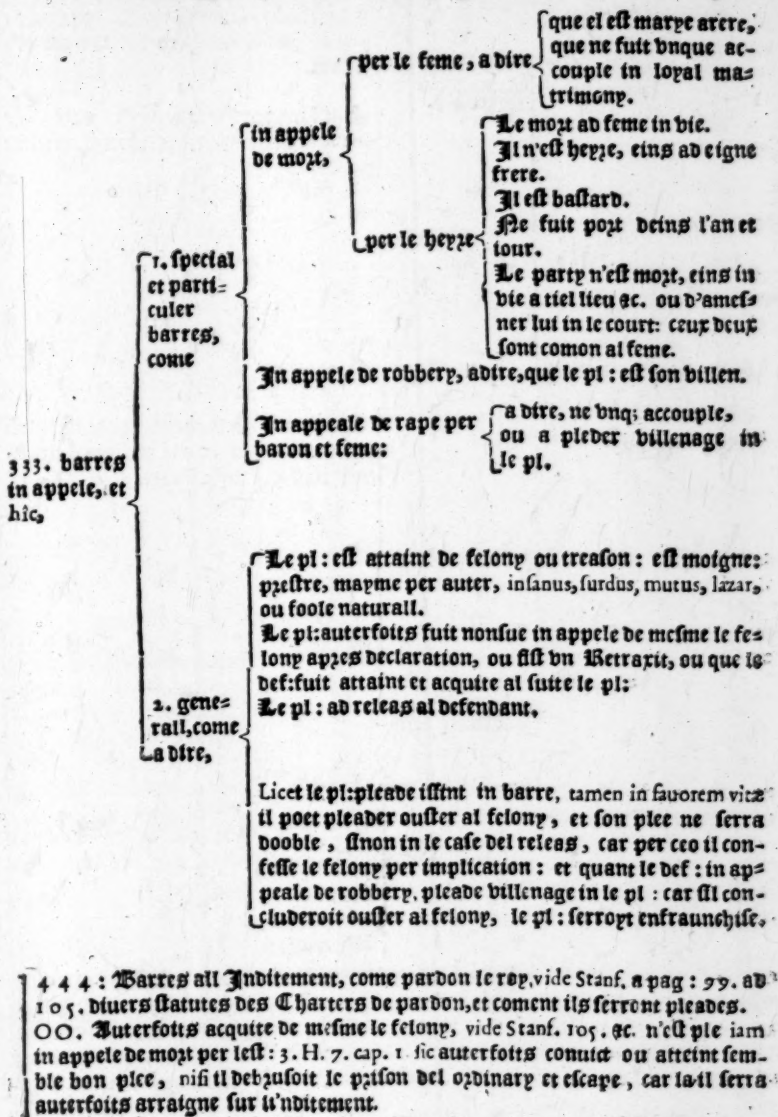
N.N. ¶ det

A Logicall Analysis of



Confess. 7777777.

333 Barres



A Logickall Analysis of

Sanctuary est vn lieu p^ruilege per le p^rince pur le safegard del vie del of- fendoz.

1. Definit
sanctuary.

Fuit foudue sur le le ley de mercy, et sur le deuotions des p^rinces al certaine licues.

R.R. Sanctuary doit estre pleade al commencement sur l'ars- raignement, lcy

Quenz auerôit le p^ruilege del sanctu- ary, queuz non, vide plusoys statutes reherles per luy, 20 8. 36.

2. Agit del
sanctuary men

1. Define, Abiuration est vn serement, q; home p^rist quant il ad committ aucun felony et fua al eglise ou cimitero pur tuitton de sa vie, est- ant pluiskost perpetuall banishment hoys del realme, que a essoyr al ley, et de stre try del ses long.

Quomodo
ils feroient
vse et demes-
nes.
Vide statutes
cites 115. 36.
huc pertinet
Abiuration,
que est

2. Latus explicata, et reherse diuers statutes, 117. 36. del v^sage des abiuroys in lincere 36.

55. Clerge

2. Del
clerkeExceſſemēt
per de-
ſcription,

Clerge eſt vn aumtient libertie del ſaynt eglise
qua quiconque poet liſer, ſi ſoyt arraine de ſelo-
ny deuant ſeculer iudge, poet ſuer deſtre diſmiſſe
al ordinarie, de faire ſa purgation del dit offence.
Liſer come clerke, eſt liſer tout le verſe. Licet
ſpeller.

Quant
Clerge
ſerra
pleade,

Non ſur ſon arraignement. vt quon-
dam, eings il ſerra miſe al reſponder
al ſelonq, et ſil ſoyt troue culpable
a ſon miſe demefne, donq; il demans
dera ſa Clerge; ſi non que le priſo-
ner voyle Waquer le benefice del
ceo, et pper ſon lpeur ſang oyer le
verdit.

Largely
per ad-
iuncts

Que ſerra iudge
d'allowe ou diſa-
lower ceo, ſ. le tē-
porall court.

Car il appoynt le verſe.
Il met ſine ſur l'ordinaire,
ſil diſt, que Lyſa, quant ne
Lyſa.
Il allowa clerge in ab-
ſence del ordinarie. Ilint
le court ne vſa l'ordinaire
ſoſq; come miniſter a conſi-
mer leur iudgement, quia eſt
eruditus,

per co-
mon ley.

Il que ad aucune impediment deſtre pteſt, come
blinde, mayme, ſacrilegus n'auera, ſic inſidiarios
res viarum, depopulatores agrorum. Ceſſuy que
tua ſe defendendo, ou per miſadventure n'auera,
nec petite laron, car ne ſont de pprendre iudgment
de vie, traytoz irauera; ceſſuy que confeſſ ſelonq
n'auoit tanq; leſt. artic. Cleri. Il que auoit ſemel,
aueroit rursus per comon ley tanq; leſt. 4. H. 7.
13. mes home deins ordres videtur exemptus.
Bigamus auoyt tanq; leſt. de Lyons, et oye leſt. 1.
E. 6. 12 accorde oue le comon ley in Bigamy.

Per leſt. vide Stan. 125. vide leſt. 1. E. 6. 12. 2. & 3. E. 6. 33: 56
& 6. E. 6. 10. & 9. 1. & 2. P. & M. 4.

Quomodo ſerra vſe, cap. 48. 49. 50. vbi, de purgation.

H. H. P. m.

A Logickall Analysis of

Clerke comist : et est celuy que
pria son Clerge deuant iudge-
ment done sur luy del felony, et
ad sa clerge allow : tuel Clerke
poet faire sa purgation, si non
in speciall cases.

ferra sa purgation :

Quel
Clerke,

Clerke attaynt, et est celuy que pria son
clerge apres iudgement, et ad son clerge al-
low, il ne ferra son purgation, eoq; quant
il est condemne del felony per iudgement,
il ne peut contrayr al iudgment estre purge
de ceo, le dit iudgment remaint en sa force,
itaq; vel paret pardon, del demurrat in pri-
son tout sa vie.

Ne ferra

H. H. Pur-
gation fit
per inquest
des Clerks
139. ostendit.

On, non obstant Clerge al-
low, il ne ferra deliuer al or-
dinary eins remaynera in
prison le roy.

Si abiuroz reuient sans licence, et
estant al barre, demaund sa Cler-
ge, et ad ceo allow, vncoze il ne sera
deliuer al ordinary, eins sera
mise a prison le roy tanq; il ad pur-
chace pardon pur son reuenu : car
comentq; le Clerge excuse le felony,
vncoze il ne tolle le contempt de re-
uener in le realme sans licence.

1. La nature et forme del cest ple.

Car il pledza pris
mum son ple, et
piera allowace de
ceo, et ouster, quant
al felong, Rien cul-
pable.

4 4 4. Rien culpable
exponit.

2. Les adiuncts.

Il est le plus vsuall ple sur
appelle ou Inditement.

Quia trench al fait, il est mult
saour in ley, car il auera cest
plee puis que il ad plede in as-
batement ou barre del appeale
ou inditement.

Chescune que est arraigne ser-
ra enforce a cest plee, si non que
il ad matter de Justification ou
matter en ley de pleder, come
si tua le home de necessitie in-
evitable pur aduancer Justice,
13. 14. ou si tua se defendendo,
mes icy le necessitie doit estre
inevitable. 13. 14. 15. 16.

Mes in cest ple de rien culpa-
ble, naura aucune counsaile
vers le roy sur inditement (con-
tra in appelle) mes pledza in pro-
per person nisi le plee excede son
connyng, quia cum cest plee va
al fait, et le party meisme conust
le fait optime, il poet mieux res-
ponder al ceo, et si auoit coun-
selt, is ouz lour sophistres tur-
barent omnia, ou si le party mes-
me parla, son conscience luy poet
stimuler, son gesture et counte-
naunce poient declarer le verite
ty, ou son simple parlanee et.

A Logicall Analysis of

Quel peruerse
tycco doit estre,

Quant cestuy que est arraigne sur felonie
(car in treason null tiel matter, vide lest.
West. 1. cap. 12.) riens responde, eins
estoit mute de malice et mal volente, ou
plede tiel matter que nest aucun responce
al felonie, ou tiel peruerse matter que ne
directement respoigne, ou fait tiel conclu-
sion sur son plee, que il ne peut auec as-
cune tregail.

10. 10. 10.
Peruenit, vbi il
expoude,

Quomodo il
sera de, per
peyne soit et
dure :

Il sera remaunde al prison dont il dy-
ent, et mise en vne base meason estoipe,
et la girra nude sur le nude terre sans
aucune littour, strps, ou auter bzapes, et
sans aucune garnithe enuyzon luy, sauant
vn chose que couera ses pnyng members, et
que il girra sur son doise, et que son teste
soit velle, et ses pees estrahes, et que vn
bzache soit trahe al vn quarter del mea-
son oue vn cozd, et l'auter bzache al auter
quarter, et in mesme le maner soit fait de
ses iabes: et q: sur son co:ps soit mise sey
et pier tant come il poet poier et pluys.
et le primer iour ensuant, il auera pane
fait de barley, troyz moxells sans aucune
boyer, et le second iour il boyera troyz
foits, tant sicome il peut del eawe que est
procheine al huisse del prison, except eawe
currant, sans aucune pane, et eco sera
son dyet tanq: il soit mozt.

byrle per des-
cription del
crimolige del
nosme.

Il peut approuer, s. accuser au-
tres qui fueront coadiutoys oue luy
de sayze felony.

Hinc dicitur approuer, s. probator,
coque il doyt prouer, bel per battail,
bel per pais, al election l'appeller,
ceo que est cōteigne en son appeale.

De queux offences home approuera, s. de ceux
felonies tantum queux il ad fait oue auters.

In null action, n. si inditement soyt
action, car in appeale il ne approu-
uera. car sic il delaperoit le pl. d'auer
execution de luy, mes il port conus-
ser l'inditement, et prier cozoner,
et sic approuer.

Ceux que poient assigner luy Cozo-
ner, come Justices de bankis, Exce-
ptor, Gaolclerke, corra de Just. de peace,
Steward & iuroys in court Baro, vi-
count et iuroys in le county court,
sans commission.

Il doyt confesser et prier le
Cozoner deuant aucune ple-
plede. Si mentu, le court luy
rollera de son appele. Si s. r.
ra ture d'appeller de tous
felonies et treasons que il fa-
cha, ce ten nombre des iours
ferra a luy appoyn, in che-
cune de queux, il doyt approu-
uer, ou ferra pendus.

Il auera gages chescun iour
i. d. del roy. quant le cozoner
est assigne a luy, il ferra lesse
hors del prison, ve appeller
sans coercion.

Quant il ad fait son appeale de-
uant le Cozoner il rechera ceo
deuant Justices, car ils ne vorrē
lyer ceo a luy, et si luy le in ascun
paroll que le Cozoner ad record, il
ferra pendus, come si dit bla. the
chynall pur rouge &c. Car per le
repugancy ferra intende que il
mentu.

It. y.

2. day.

1. Expo-
nit le na-
nature
del approu-
uer.

largy per aduands.

coment
il ferra
vse,

777777.
Confession est
le plus sure
respōce: apres
confession il
poet approu-
uer: approuer
auera sa vie,
quia il cōbata
pur le peace,
mes ferra bā-
mis le realme.

vide, & & &

2.

A Logical Analysis of

Si l'appellee soit in mesme
le coist ou lappeale est fait
le Cozoner agardera pprocess
rang; al exigent.

1. le pprocess vers lapp-
pellee.

Si in auter county, tunc les
Justices devant queux le
Cozoner recozd le dit ap-
peale, come Just: de banck,
et Epre per comon ley, et del
gaol deliuer, per lest. de
18. E. 1.

¶ 2. D'appellee vbi ex-
ponit.

les exceptions vers
l'approuz.

Que il est attaynt de tresson
ou felony.

Que il est Clerke conuict.

Que il n'est impyson pur
felony ou treason, eins pur
dette ou trespas.

Que il n'est ppysoner, eins
alarge.

Que il est deins age, ou ou-
ster l'age de 70. ans, prestre,
feme, maine &c.

Si l'appellant apres son
appele, est pendus, ou pyist
soz a son clerge, le roy poet
pursuer l'appellee, et auer
luy arraigne &c. Imò il soit
deliure discharge vers le roy
et party, le court poet luy
lyet de se bene gerendo,

T. T. Paner

T. T. Maier del Trian.

Proper al peres del realme, f. per 12. pares al meynes,

Vide le order, Stanf. fol. 133. & ceo terra tantum in Judges ments, et nemp in appels.

Combas auters, f. per pais, per hōes de vicineto ou le felon fut fait, et serue al Inditement et appeale, exponir,

1. De quel county le pays bien vya.

Vide leff de 2. et 3. E. 6. cap. 24 quant felon est fait en un county, et le receipt in auter, le trespall in un, et bon. Vide leff. 22. H. 8. cap. 14. & Stanford, pag. 154.

Tales, 155.

Nisi prius. 156. 157.

peremptory sans cause in fauorem vitæ, al number de 35. per comon ley. mes per leff. 22. H. 8. cap. 14. tantum. 20.

Chalenge.

2. per quel proces, f. venire facias : Habeas corpora; Distingas, hic pel,

Come, il fuit son Inditoz ec.

Et al array, si tous ont engloys vers es stranger.

Item pur defect de franchement, Vide leff. de 27. Elis.

Evidence, chescune terra admet a doner evidence pur le roy. 153.

vel general.

verdit, esq;

Speciall, f. alarge, quant ils doubtent an loyt felon.

In appeale hie trial per battayle est allowe.

Si appelle plusors d'un felon, il combatra oue tous, lunc apres l'auter : describit,

Le order del combat ex Britton, 41. Vide Stanf. 117.

Les counterplees al battayle, f.

Aucune presumption, come si fuit endite pur ceo, ou prise oue le manoz. Que il estant arrestu, sus, ou debzusa le prison.

Imbecillite in l'appellant, si soit malme, deins 14. ans: ou ouster 70.

Deins order, ou feme.

Item privilege del person, come si soit arraigne al suite le roy in lappeale. Le def. acquite recouera damages vers le plou, si ne soit sufficient, vers les abeytozs. Vide Stanf. a pag. 168, viq; ad 117.

Allogical Analysis of

Del felony, quod suspendatur per Collum.

Exponit
les seuer-
ral iudg-
mentes, s.

Grande.

In home, Il serra reameine al
lieu dont il vient, et serra trahe sur
vne hurdle tesq; al lieu de execution,
et la destre pendus per le colie, et
vne destre decoupe, et ses en-
trayles et pzeuy members destre
excises de son corps, et combures
deins son vieu, et son teste destre
abscisse, et son corps destre dnyde
in quater parts a disposer al vo-
lunt le roy.

In feme, destre trahe et combure
iam in grande treasō quām petite.

Si feme soit enseinte de vne ens-
fant, el serra semel respite del exe-
cution, mes le iudgement serra
done mayntenant.

Treason

XX. Fi-
nal iudg-
ment, vbi,

Petite : In home, est destre trahe et pendus.
pur misprison il foyserra ses biens, mes nemy
terres foysq; pur vie, et serra in perpetuall
prison. q. Vide stant. 37. 38. diuers seuerall
penalties accoydant al offences.

les penalties, que en-
suet cest iudgemēt,
& implicatur et si non
exprimuntur,

Corruption del sangue vient per atteindre
del felony ou treason, issintq; les infants ne
poyent estre heires a luy, ne al ascune auter
auncelsoz. Et si luy fust noble ou gentleman de-
uant, il et tous les infants sont deuenus ig-
nobles, et cest corruption ne poet estre salue
foysq; per Parlement solement.

foysseure. ωωω,

Clerke conuict fozfetra ses biens, comentq; ad fait sa purgation, et les issues del terre que il ad in son dzoyt, ou in dzoyt sa feme, tanq; il ad fait sa purgation.

Home fozfetra son dzoyt al biens, et chose in action, come obligation &c.

Item il fozfetra biens in queux il n'ad aucune ppozfettiz, come leo baile argent hozs del bag a rebapler a moy, le bailee est attaynt, le roy auera l'argēt, car ne poert estre conues &c. quis hozs de bag.

Home fozfetra ses Chateaux sur fugam fecit comentq; soyt acquite del mesme le felony, ou ad son charter de pardon pur mesme le felony. cest fuer en fait.

Home fozfetra ses biens sur exigent agard, sur vn fuer en ley, comentq; soit acquite del felony.

Biens
pur trea-
son et fe-
long.

1. que ser-
ra fozfet,
f.

fozfet-
ture.

Vide ***
2.

Vide ***

felo de se.

Home arrestue sua, et
est tue in le pursuyte,
ou si soit tue deuāt le
arrest, repugnando, &c.
Home que leua guer-
re, et si tue in pcell.

Quant vn est troue culpable del homicide des-
uant le Cozoner, le Cozoner seisera ses biens
et lyuera al ville. Sur fugam fecit troue des-
uant le Cozoner, le vicount terra in mesme le
maner. Mes si vn soyt indite del mesme le fe-
lony, ses biens ne seront remoues hozs de sa
meason tanq; il soyt attaynt, eins seront en
garde les vicins, et le felon auera viands de
ceo. Le ville sera charge que le custody des
biens, niss ils porrent monstre, que auter ad
eux. Mes le vicount est semper chargeable
que les issues del terre.

***. Terres et
d'oyt del terres
serra fozzet pur
treason ou felo-
ny. mes hic Pe-
state serra consi-
der, car

Tenant pur vie ou ans ne fozferra fozsq; pur son terme, sic pur
petite treason ou felony, tenant in tail ne fozferra fozsq; pur
sa vie, contra in grand treason, per leif. 5. et 6. E. 6. cap. 17.
et per mesme leif. home ne fozferra terre que il ad in auter d'oyt,
come in d'oyt sa feme, sa eglise &c. vna cum terre, les charters
del terre seront fozfets.

Pur treason del herib, (grāb et petite) le feme perdra sa dower;
mes nemy pur felony, per leif. 1. E. 6. cap. 12. 5. & 6. E. 6.
cap. 11.

In petite treason ou felony le roy auera l'au, four, et Waste
des terres que sont tenus d'auter que de luy, et donq; le seig-
nour auera lescheate, mes in grand treason, le roy auera les-
cheate, de quocunq; le terre soit tenus.

***. s. Quant
serra fozzet, l'ac-
tion del foz-
seture.

In terres il relate al temps del act fait mayntenant, itaque illi
done ou alien aprez le fait, le relation del attaynder defeatera
tout.

Mes in biens n'est illint, car le done de euy inter le felony et
l'attaynder, est bon.

FINIS.

Art. Scholar, Lass, master of nature 2.

Counterpart 3.

Teach what

Set forth 3.

Analysis and Genosis (Synthesis) 3.

The Arcadia 4.

Science + Opinion 5.

Adjunct - 6. 6. 7.

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law and the common law of
England. [Anr. ed. of Pt. I.]
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